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June 5, 2002

OLYMPIA, WASHINGTON

**ISSUE 02-11** 



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### CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

### PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

### REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

# **CERTIFICATE**

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER Code Reviser

# STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of June 2002 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

John G. Schultz
Chair, Statute Law Committee

Kerry S. Radcliff
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Subscription Clerk

Gary Reid
Chief Assistant Code Reviser

# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

# ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (d) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) MISCELLANEOUS-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (g) TABLE-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) INDEX-includes a cumulative index of Register Issues 01 through 24.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

# 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style lickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) <u>underlined material</u> is new material;
  - (ii) deleted material is ((lined out between double parentheses));
- (b) Complete new sections are prefaced by the heading <u>NEW SECTION</u>;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading <u>REPEALER</u>.

# 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

# 4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

# **EDITORIAL CORRECTIONS**

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

2001-2002
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue		Distribution				Expedited
Number		Closing Dates 1		Date	Hearing Date <sup>3</sup>	Rule making 4
	Non-OTS and	Non-OTS and	OTS <sup>2</sup> or			
	30 p. or more	11 to 29 p.	10 p. max.			
For			Non-OTS	Count 20	For hearing	First Agency
Inclusion in -	File n	o later than 12:00	noon -	days from -	on or after	Adoption Date
01 - 13	May 23, 01	Jun 6, 01	Jun 20, 01	Jul 5, 01	Jul 25, 01	N/A
01 - 14	Jun 7, 01	Jun 21, 01	Jul 5, 01	Jul 19, 01	Aug 8, 01	· N/A
01 - 15	Jun 20, 01	Jul 5, 01	Jul 18, 01	Aug 1, 01	Aug 21, 01	N/A
01 - 16	Jul 5, 01	Jul 18, 01	Aug 1, 01	Aug 15, 01	Sep 4, 01	Oct 2, 01
01 - 17	Jul 25, 01	Aug 8, 01	Aug 22, 01	Sep 5, 01	Sep 25, 01	Oct 23, 01
01 - 18	Aug 8, 01	Aug 22, 01	Sep 5, 01	Sep 19, 01	Oct 9, 01	Nov 6, 01
01 - 19	Aug 22, 01	Sep 5, 01	Sep 19, 01	Oct 3, 01	Oct 23, 01	Nov 20, 01
01 - 20	Sep 5, 01	Sep 19, 01	Oct 3, 01	Oct 17, 01	Nov 6, 01	Dec 4, 01
01 - 21	Sep 26, 01	Oct 10, 01	Oct 24, 01	Nov 7, 01	Nov 27, 01	Dec 26, 01
01 - 22	Oct 10, 01	Oct 24, 01	Nov 7, 01	Nov 21, 01	Dec 11, 01	Jan 8, 02
01 - 23	Oct 24, 01	Nov 7, 01	Nov 21, 01	Dec 5, 01	Dec 25, 01	Jan 23, 02
01 - 24	Nov 7, 01	Nov 21, 01	Dec 5, 01	Dec 19, 01	Jan 8, 02	Feb 5, 02
02 - 01	Nov_21, 01	Dec 5, 01	Dec 19, 01	Jan 2, 02	Jan 22, 02	Feb 20, 02
02 - 02	Dec 5, 01	Dec 19, 01	Jan 2, 02	Jan 16, 02	Feb 5, 02	Mar 5, 02
02 - 03	Dec 26, 01	Jan 9, 02	Jan 23, 02	Feb 6, 02	Feb 26, 02	Mar 26, 02
02 - 04	Jan 9, 02	Jan 23, 02	Feb 6, 02	Feb 20, 02	Mar 12, 02	Apr 9, 02
02 - 05	Jan 23, 02	Feb 6, 02	Feb 20, 02	Mar 6, 02	Mar 26, 02	Apr 23, 02
02 - 06	Feb 6, 02	Feb 20, 02	Mar 6, 02	Mar 20, 02	Apr 9, 02	May 7, 02
02 - 07	Feb 20, 02	Mar 6, 02	Mar 20, 02	Apr 3, 02	Apr 23, 02	May 21, 02
02 - 08	Mar 6, 02	Mar 20, 02	Apr 3, 02	Apr 17, 02	May 7, 02	Jun 4, 02
02 - 09	Mar 20, 02	Apr 3, 02	Apr 17, 02	May 1, 02	May 21, 02	Jun 18, 02
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02 - 13	May 22, 02	Jun 5, 02	Jun 19, 02	Jul 3, 02	Jul 23, 02	Aug 20, 02
02 - 14	Jun 5, 02	Jun 19, 02	Jul 3, 02	Jul 17, 02	Aug 6, 02	Sep 4, 02
02 - 15	Jun 26, 02	Jul 10, 02	Jul 24, 02	Aug 7, 02	Aug 27, 02	Sep 24, 02
02 - 16	Jul 10, 02	Jul 24, 02	Aug 7, 02	Aug 21, 02	Sep 10, 02	Oct 8, 02
02 - 17	Jul 24, 02	Aug 7, 02	Aug 21, 02	Sep 4, 02	Sep 24, 02	Oct 22, 02
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02 - 19	Aug 21, 02	Sep 4, 02	Sep 18, 02	Oct 2, 02	Oct 22, 02	Nov 19, 02
02 - 20	Sep 4, 02	Sep 18, 02	Oct 2, 02	Oct 16, 02	Nov 5, 02	Dec 3, 02
02 - 21	Sep 25, 02	Oct 9, 02	Oct 23, 02	Nov 6, 02	Nov 26, 02	Dec 24, 02
02 - 22	Oct 9, 02	Oct 23, 02	Nov 6, 02	Nov 20, 02	Dec 10, 02	Jan 7, 03
02 - 23	Oct 23, 02	Nov 6, 02	Nov 20, 02	Dec 4, 02	Dec 24, 02	Jan 21, 03
02 - 24	Nov 6, 02	Nov 20, 02	Dec 4, 02	Dec 18, 02	Jan 7, 03	Feb 4, 03

All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 1.12.040 and 34.05.353.

# REGULATORY FAIRNESS ACT

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

# Small Business Economic Impact Statements (SBEIS)

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

# Mitigation

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

# When is an SBEIS Required?

# When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

# When is an SBEIS Not Required?

### When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

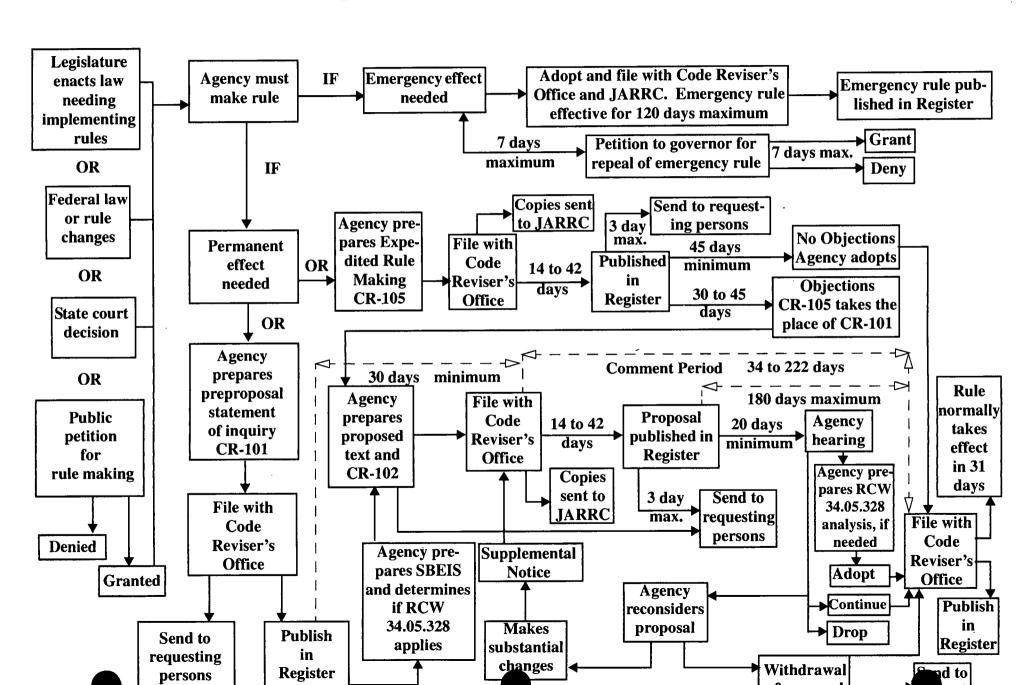
There is less than minor economic impact on business;

The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

# **RULE-MAKING PROCESS**



# WSR 02-11-007 PREPROPOSAL STATEMENT OF INQUIRY BOARD OF ACCOUNTANCY

[Filed May 2, 2002, 1:22 p.m.]

Subject of Possible Rule Making: WAC 4-25-610 Which rules govern the conduct of CPAs?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.04.055(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board received input that the language in the rule leads to practitioner liability or opens the door to lawsuits against CPAs. Additionally, given recent national level events, it is anticipated that the public and other stakeholders may wish to provide input to the board on revisions to this rule which governs the ethics of CPAs and firms.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by writing to Dana M. McInturff, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, (360) 586-0163, fax (360) 664-9190, e-mail danam@cpaboard.wa.gov.

April 29, 2002
Dana M. McInturff, CPA
Executive Director

# WSR 02-11-029 WITHDRAWAL OF PREPROPOSAL STATEMENT OF INQUIRY SECRETARY OF STATE

[Filed May 7, 2002, 12:05 p.m.]

Please officially withdraw the preproposal statement of inquiry (CR-101) filed on April 25, 2002, to be published in WSR 02-10-054. We will not be amending the administrative code identified in this filing at this time.

Steve Excell Assistant Secretary of State

# WSR 02-11-034 PREPROPOSAL STATEMENT OF INQUIRY HEALTH CARE AUTHORITY

[Order 02-03—Filed May 7, 2002, 4:39 p.m.]

Subject of Possible Rule Making: Revise Title 182 WAC to include provisions for furlough employees consistent with changes enacted by the 2002 legislature.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Health Care Authority will be reviewing Title 182 WAC to consider amending cur-

rent rules and the possible adoption of new rules to accommodate employees placed on mandatory unpaid leave for purposes of implementing appropriations reductions enacted as part of the 2002 supplemental budget and as directed by the 2002 legislature. These may include revisions to WAC 182-08-190 and 182-12-121 as well as other sections in Title 182 WAC. In addition, the Public Employee's Benefits Board will review and consider changes to existing rules to streamline administration of the program.

Process for Developing New Rule: Stakeholder mailing and public rule-making hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barbara Scott, Health Care Authority, 676 Woodland Square Loop S.E., Olympia, WA 98504-2684, phone (360) 923-2642, fax (360) 923-2602.

> May 7, 2002 Melodie H. Bankers Rules Coordinator

# WSR 02-11-035 PREPROPOSAL STATEMENT OF INQUIRY HEALTH CARE AUTHORITY

[Order 02-02—Filed May 7, 2002, 4:40 p.m.]

Subject of Possible Rule Making: Revise Title 182 WAC to be consistent with changes enacted by the 2002 legislature and to streamline the administration of the PEBB program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this rule making is primarily to adopt rules to implement the health insurance program for blind vendors (SHB 1741). The Health Care Authority will also review Title 182 WAC to evaluate the necessity and desirability of amending current rules and the possibility of adopting new rules to effectuate other changes enacted by the 2002 legislature. These may include revisions to WAC 182-12-111 and 182-08-190 as well as other sections in Title 182 WAC. In addition, the Public Employee's Benefits Board will review and consider changes to existing rules to streamline administration of the PEBB-sponsored health insurance program.

Process for Developing New Rule: Stakeholder mailing and public rule-making hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barbara Scott, Health Care Authority, 676 Woodland Square Loop S.E., Olympia, WA 98504-2684, phone (360) 923-2642, fax (360) 923-2602.

> May 7, 2002 Melodie H. Bankers Rules Coordinator

# WSR 02-11-037 PREPROPOSAL STATEMENT OF INQUIRY WASHINGTON STATE PATROL

[Filed May 8, 2002, 10:44 a.m.]

Subject of Possible Rule Making: Chapter 204-95 WAC is being amended to correct the use of the commercial vehicle safety alliance (CVSA) decal. The decal was not intended for limousines.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.37.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The CVSA decal was not intended for use on a limousine. It is intended for commercial trucks having to comply with all the rules and regulations in the Federal Motor Carrier Safety Regulations (FMVSR) Handbook. Limousines are not required to meet all the rules associated with the FMVSR. This amendment will keep WSP in compliance with the rules governing the use of the CVSA decal.

Process for Developing New Rule: Agency study; and received written input from CVEOs in the department, the Department of Licensing and verbal input from the Limousine Law Workgroup.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ms. Christine M. Fox, Washington State Patrol, Equipment and Standards Review Unit Manager, P.O. Box 42614, Olympia, WA 98504, cfox@wsp.wa. gov, phone (360) 753-3697, fax (360) 586-8233.

> April 30, 2002 Ronal W. Serpas Chief

# WSR 02-11-060 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
[Filed May 10, 2002, 4:38 p.m.]

Subject of Possible Rule Making: Chapter 388-422 WAC, Child support, and all related WACs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Division of Child Support (DCS) revised chapter 388-14A WAC, therefore the DCS WAC references in chapter 388-422 WAC need to be updated.

The use of the acronym "AFDC" needs to be corrected, and the reference to the GAH program needs to be deleted.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rule. Anyone interested

in participating should contact the staff person indicated below. After the rule is drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making. They will send a copy of the draft to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Stephanie Del Camp at (360) 413-3084, by e-mail at delcasj@dshs.wa.gov, or by mail at DSHS-ESA, Division of Employment and Assistance Program, P.O. Box 45470, Olympia, WA 98504-4570.

> May 10, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-061 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed May 10, 2002, 4:39 p.m.]

Subject of Possible Rule Making: Chapter 388-454 WAC, Living with a relative or guardian, and all related WACs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: When determining in Loco Parentis eligibility, the department must gather additional information beyond what background checks provide. The rule revision will clarify the steps necessary to determine correct eligibility for In Loco Parentis cases. Chapter 388-454 WAC needs to be aligned with the social services chapter 388-290 WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rule. Anyone interested in participating should contact the staff person indicated below. After the rule is drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy of the draft to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Stephanie Del Camp at (360) 413-3084, by e-mail at delcasj@dshs.wa.gov, or by mail at DSHS-ESA, Division of Employment and Assistance Program, P.O. Box 45470, Olympia, WA 98504-4570.

May 10, 2002
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

# WSR 02-11-062 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
[Filed May 10, 2002, 4:40 p.m.]

Subject of Possible Rule Making: Chapter 388-450 WAC, Income.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.510 and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This revision is necessary to incorporate federal requirements on income budgeting into rule.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rule. Anyone interested in participating should contact the staff person indicated below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, accept written comments and conduct a public hearing. A copy of the proposed rules will be sent to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve Pargman at (360) 413-3073, by e-mail at pargmse@dshs.wa.gov, or by mail at DSHS-ESA, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-4570.

> May 8, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-063 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed May 10, 2002, 4:42 p.m.]

Subject of Possible Rule Making: WAC 388-412-0025 How do I get my benefits?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW-74.04.510 and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rule contains a reference to electronic benefit transfer (EBT) accounts becoming inactive after ninety days of inactivity. As of August 2001, EBT accounts no longer became inactive after ninety days of inactivity.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rule. Anyone interested in participating should contact the staff person indicated below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, accept written comments and conduct a public hearing. A copy of the proposed rules will be sent to everyone

currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve Pargman at (360) 413-3073, by e-mail at pargmse@dshs.wa.gov, or by mail at DSHS-ESA, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-4570.

> May 8, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-064 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration) (Medical Assistance Administration) [Filed May 10, 2002, 4:44 p.m.]

Subject of Possible Rule Making: Adopt rules within chapters 388-71 and 388-515 WAC to establish the medically needy (MN) waiver program. Amending, clarifying and reorganizing COPES rules to:

- Comply with the Governor's Executive Order 97-02 and the Secretary's Order on Regulatory Improvement
- Reflect changes in program requirements and/or options.

Statutes Authorizing the Agency to Adopt Rules on this Subject: SHB 1341 (chapter 269, Laws of 2001), RCW 74.09.700, chapter 74.39 RCW, RCW 74.08.090, 74.04.050, and 74.09.575.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ESHB 1341 (chapter 269, Laws of 2001) authorizes DSHS to develop a new waiver program for individuals in need of long-term care services in the community. The legislation specifically requires the department to adopt rules to establish eligibility criteria, applicable income standards, and specific waiver services to be provided. This change is also necessary to reflect amendments to the COPES waiver.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Centers for Medicare and Medicaid Services (CMS). Aging and Adult Services Administration (AASA) maintains the programs for long-term care and waivered services. Coordination of this rule has been completed through a workgroup consisting of members from AASA, Medical Assistance Administration (MAA), state unit on aging, and quality assurance.

Process for Developing New Rule: AASA and MAA welcome public participation in the development of these rules. At a later date, the department will publish and distribute proposed rules with a notice of proposed rule making, accept written comments, and conduct a public hearing. Draft materials and information about how to participate are

[3]

available by contacting the DSHS representatives identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kristi Olson, DSHS/Home and Community Services Division, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2537, fax (360) 438-8633, e-mail olsonkl2@dshs.wa.gov.

May 8, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-065 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
[Filed May 10, 2002, 4:45 p.m.]

Subject of Possible Rule Making: Chapter 388-450 WAC, Income.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.510 and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This revision is necessary to incorporate federal requirements on income budgeting into rule.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rule. Anyone interested in participating should contact the staff person indicated below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, accept written comments and conduct a public hearing. A copy of the proposed rules will be sent to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve Pargman at (360) 413-3073, by e-mail at pargmse@dshs.wa.gov, or by mail at DSHS-ESA, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-4570.

May 8, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-066 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)
[Filed May 10, 2002, 4:46 p.m.]

Subject of Possible Rule Making: The residential care services division is adding a new section to chapter 388-97 WAC, Nursing homes, to incorporate changes made during

the recent legislative session in SB 5291 regarding influenza virus and pneumococcal disease immunizations.

Residential care services is also amending WAC 388-97-570 to reflect changes made during session in SHB 2382 regarding convictions related to abuse and neglect.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.51.070, 74.42.620.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Legislation from 2002 session was passed in SB 5291 adding a new section to chapter 74.42 RCW, Nursing homes—Resident care, operating standards, effective June 13, 2002. Adding a new section to chapter 388-97 WAC will incorporate those changes.

2002 legislation in SHB 2382 also added a new section to chapter 9A.42 RCW creating a new crime of criminal mistreatment of the 4th degree, effective June 13, 2002. Amending WAC 388-97-570 will reflect the addition of the new crime as a disqualifying crime in the licensing process.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington State Patrol.

Process for Developing New Rule: The public is welcome to take part in the rule-making process. Upon official publication of proposed rules, mailings will go to nursing home providers and other interested stakeholders included on the mailing list. Any communication can be directed to the staff person indicated below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sherri Wills, Residential Care Services, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2348, fax (360) 438-7903, e-mail willssk@dshs.wa.gov.

> May 10, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-076 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed May 13, 2002, 4:16 p.m.]

Subject of Possible Rule Making: Chapter 246-320 WAC, Hospitals, would be amended to include a new section to address SSB 6537, emergency care for sexual assault victims, which passed in the 2002 legislative session.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.41 RCW, chapter 116, Laws of 2002.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 116, Laws of 2002 (SSB 6537) requires every hospital providing emergency care to a victim of sexual assault to provide the victim with medically and factually accurate, unbiased written and oral information about emergency contraception; to orally inform each victim of sexual assault of her option to be provided emergency contraception; and, if not medically contraindicated, to provide emergency contraception immediately at the hospital to each victim of sexual assault who requests it.

Rules will help ensure that emergency rooms are aware of the requirements and that information and emergency care is provided consistently among facilities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Yvette Lenz, Department of Health, Facilities and Services Licensing, 2725 Harrison Avenue N.W., Suite 500, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 705-6661, fax (360) 705-6654, website www3.doh.wa.gov/policyreview.

Mary C. Selecky Secretary

# WSR 02-11-077 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed May 13, 2002, 4:18 p.m.]

Subject of Possible Rule Making: To create an advanced life support (ALS)/intermediate life support (ILS) ongoing training and evaluation program (OTEP) in rule, similar to those rules already established at the basic life support level. The proposal would require amending WAC 246-976-161 and 246-976-171.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.71.205 Emergency medical service personnel—Certification.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, RCW 18.73.081 allows first responders and emergency medical technicians (EMTs) to recertify using one of two methods: (1) The OTEP method which replaces the written exam with a requirement for appropriate medical program directorapproved evaluations of individual knowledge and skills; or (2) the traditional method of completing a required number of continuing medical education (CME) hours and taking a recertification exam. At present 95% of certified first responders and EMTs recertify via OTEP. This proposal would create fairness in recertification and improve the quality of ILS and ALS personnel certified by the Department of Health. It would provide the same opportunity to those recertifying at the ILS and ALS levels, who currently do not have an option and must recertify in only the traditional method (completing a required number of CME hours and taking the recertification exam).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Statutory and other EMS and trauma care committees and interested parties will be asked to participate in the drafting of the proposed rule changes through public meetings and public workshops. Appropriate draft rules and meeting dates will be either

mailed or e-mailed to them. Among the external parties already interested in the proposal that will be invited to participate include: The EMS and trauma medical program directors, the local and regional EMS and trauma care councils, certified EMS personnel, licensed EMS agencies, the Washington State Council of Firefighters, the Washington State Fire Chiefs Association, and the Washington Ambulance Association.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Public meetings and public workshops will be held throughout the state and the final draft of the proposed WAC amended language will be sent out to all affected and interested parties before the formal public hearing is held.

Anyone with questions or concerns regarding the proposal to adopt rules for ALS/ILS OTEP should contact Jack Cvitanovic, Manager, Licensing and Certification Section, Office of Emergency Medical and Trauma Prevention at P.O. Box 47853, Olympia, WA 98504-7853, e-mail jack.cvitanovic@doh.wa.gov, phone (360) 705-6712, or fax (360) 705-6706.

Mary C. Selecky Secretary

# WSR 02-11-078 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF RETIREMENT SYSTEMS

[Filed May 14, 2002, 9:14 a.m.]

Subject of Possible Rule Making: Change actuarial factors in the Department of Retirement Systems (DRS) plans. Changes will be made to WAC 415-104-108, 415-108-340, 415-110-340, and 415-112-040. Changes will be made to other WACs for cross-referencing, or as identified, or otherwise, as needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5), chapter 41.45 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Office of the State Actuary published a 1995 - 2000 actuarial experience study in January 2002 which included updated actuarial factors. DRS will change existing WACs to reflect new actuarial projections. At the same time, DRS plans to make the WAC easier to understand and to include examples to help members, retirees, and beneficiaries understand how to use the charts. DRS is considering consolidating the charts into one location in the WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Department staff will work on the project, with the assistance of the Office of the Attorney General. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Retirement Systems encourages

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your active participation in the rule-making process. Anyone interested in participating should contact the rules coordinator, below. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy. For more information on how to participate, please contact Merry A. Kogut, Rules Coordinator, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, e-mail merryk@drs.wa.gov, fax (360) 753-3166.

May 13, 2002 Merry A. Kogut Rules Coordinator

# WSR 02-11-097 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed May 20, 2002, 9:15 a.m.]

Subject of Possible Rule Making: Chapter 308-93 WAC, Vessel registration and certificates of title, to include but not limited to WAC 308-93-230.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.02.070 and 88.02.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as result of this review in accordance with Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting by mail Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

May 14, 2002 D. McCurley, Administrator Title and Registration Services

# WSR 02-11-104 PREPROPOSAL STATEMENT OF INQUIRY HEALTH CARE AUTHORITY

[Order 02-04-Filed May 20, 2002, 11:34 a.m.]

Subject of Possible Rule Making: Addition of language to provide special dental and interpreter grant funding for transition immigrant population from DSHS/MAA per ESSB 6387 for nonprofit community clinics funded under the community health services program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide funding methodology that will allow services to be delivered pursuant to ESSB 6387.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Public hearings and stakeholder meetings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bob Blacksmith, P.O. Box 42710, Olympia, WA 98504-2710, phone (360) 923-2755, fax (360) 923-2605.

> May 20, 2002 Melodie Bankers Rules Coordinator

# WSR 02-11-105 WITHDRAWAL OF PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed May 20, 2002, 12:25 p.m.]

The Department of Health would like to withdraw the following notices of inquiry (CR-101) because they are no longer valid.

WAC NUMBER	WSR NUMBER	WSR DATE	SUBJECT
246-924-485	98-23-070	11-17-1998	Psychology tempo- rary practice per- mits
246-811	99-16-048	7-30-1999	Chemical depen- dency profession- als education pro- grams
246-826-080	96-15-072	7-18-1996	Health care assis- tance update of chapter
246-828	99-20-055	10-1-1999	Hearing and speech retired active status
246-828-080 to 100	99-22-089	11-2-1999	Hearing and speech minimum stan- dards of practice
246-828-320	99-22-088	11-2-1999	Hearing and speech minimum stan- dards for fitting and dispensing loca- tions
246-843-220	98-01-162	12-22-1997	Nursing home administrators com- plaints and hearing procedures
246-851	97-20-155	10-1-1997	Optometry definition of vision therapy
246-887-160	96-24-097	12-4-1996	Pharmacy schedule III drugs

WAC NUMBER	WSR NUMBER	WSR DATE	SUBJECT
246-904-010	98-04-037	1-29-1998	Pharmacy health care entity definitions

The following expedited repeals have expired and must be withdrawn.

246-883-050	98-07-088	3-17-1998	Pharmacy theophyl- line prescription restrictions
246-808-001 [246-808-101], 320 thru 390, 640	99-03-061	1-18-1999	Chiropractor house- keeping
246-808-700	00-04-087	2-2-2000	Chiropractor coop- eration with an investigation

If you have any questions, please contact Mary Dale, Rules Coordinator, at (360) 236-4983.

Mary C. Selecky Secretary

# WSR 02-11-110 PREPROPOSAL STATEMENT OF INQUIRY PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed May 20, 2002, 1:32 p.m.]

Subject of Possible Rule Making: Rules to implement the basic skills test (WEST-B) required for all applicants to teacher preparation programs and certified teachers from outof-state applying for a Washington state residency teaching certificate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW provides that the Professional Educator Standards Board may establish exemptions to the WEST-B for applicants to master's level teacher preparation programs and for certified teachers from out-of-state applying for a Washington state residency teaching certificate.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: We are coordinating with the Washington State Board of Education.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. For information or schedule of upcoming meetings contact Jennifer Wallace, Executive Director, Professional Educator Standards Board, Old Capitol Building, P.O. Box 47236, Olympia, WA 98504-7236, (360) 725-6275, fax (360) 586-4548, or PESB website www.pesb.wa.gov.

May 20, 2002 Jennifer Wallace Executive Director

# WSR 02-11-116 PREPROPOSAL STATEMENT OF INQUIRY WASHINGTON STATE PATROL

[Filed May 21, 2002, 10:07 a.m.]

Subject of Possible Rule Making: To adopt recognized standards for emergency respite centers to protect life against the cause and spread of fire and fire hazards as pursuant to RCW 74.15.050.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.15.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rules do not reference the current standards now in effect with emergency respite centers.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Social and Health Services (DSHS).

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mr. Roger Woodside, Fire Protection Bureau, P.O. Box 42601, Olympia, WA 98504, rwoodsi @wsp.wa.gov, phone (360) 705-5763, fax (360) 753-0395.

May 10, 2002 Ronal W. Serpas Chief

# WSR 02-11-123 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed May 21, 2002, 11:16 a.m.]

Subject of Possible Rule Making: Amending WAC 458-20-209 Farming for hire and horticultural services ((performed for)) provided to farmers and 458-20-210 Sales of tangible personal property for farming—Sales of agricultural products by farmers; and repealing WAC 458-20-122 Sales of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 458-20-122 (Rule 122) explains the application of business and occupation (B&O) tax, retail sales, and use taxes to the sale and/or use of feed, seed, fertilizer, spray materials, and other tangible personal property for farm use. WAC 458-20-209 (Rule 209) explains the application of B&O, retail sales, and use taxes to persons engaging in the business of farming for hire and per-

sons who provide horticultural services to farmers. WAC 458-20-210 (Rule 210) explains the B&O and retail sales tax applications to sales of agricultural products by farmers.

The information now provided in these rules will be revised to incorporate a number of recent legislative changes affecting farmers and persons making sales to farmers. These changes include those provided in chapter 118, Laws of 2001, regarding changes to the definitions of "farmer" and "agricultural product," and chapter 17, Laws of 2001 2nd sp.s., which provides retail sales and use tax exemptions for certain animal pharmaceuticals. The department plans to consolidate the information now provided in Rules 122 and 210 into a single rule (Rule 210) and, as a result, Rule 122 will be repealed. Consolidating these rules will provide the information to the public in a more efficient and user-friendly manner. The department also anticipates incorporating information currently contained in several Excise Tax Advisories into a revised Rule 210. As a result, those advisories will be cancelled.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Mark Mullin, Tax Policy Specialist, Legislation and Policy Division, State of Washington Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6112, fax (360) 664-0693, e-mail MarkM@dor.wa.gov.

Location and Date of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on Tuesday, June 25, 2002, at 9:30.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985, or (360) 570-6175.

May 20, 2002 Alan R. Lynn, Rules Coordinator Legislation and Policy Division

# WSR 02-11-125 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed May 21, 2002, 11:19 a.m.]

Subject of Possible Rule Making: The division of employment and assistance programs will amend WAC 388-448-0180 How and when we redetermine your eligibility if we decide you are eligible for GAX (general assistance expedited).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In this WAC, the term "administrative hearing" is intended to mean the very last level of appeal of a supplemental security income (SSI) application prior to a federal court appeal; this level is also known as the "appeals council review." This proposal will amend that reference to say "appeals council review" instead of "administrative hearing."

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: DSHS welcomes the public to take part in developing this rule. Anyone interested in participating should contact the staff person indicated below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, and send a copy of the draft to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Glenda Lee, DSHS - ESA Division of Employment and Assistance Programs, P.O. Box 45470, phone (360) 413-3262, fax (360) 413-3495, e-mail LeeGL @dshs.wa.gov.

May 20, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-126 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration) [Filed May 21, 2002, 11:19 a.m.]

Subject of Possible Rule Making: Nursing homes, WAC 388-97-550 and 388-97-555.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.51.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To increase the nursing home licensing fees from \$127 a bed to \$275 a bed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: By publishing in the Washington State Register: CR-101 Preproposal Statement of Inquiry; CR-102 Proposed Rule Making; and CR-103 Rule Making Order including a Concise Explanatory Statement.

The Aging and Adult Services Administration (AASA) welcomes the public participation in developing its rule(s). Anyone interested in participating should contact the staff person indicated below. At a later date, AASA will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone cur-

rently on the HCS mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. If you would like to be personally notified when draft regulations are ready for review, please contact the following staff person: Patricia Hague by fax at (360) 725-2641, e-mail at HaguePE@dshs.wa.gov or write to same at Home and Community Rates, P.O. Box 45600, Olympia, WA 98504-5600.

May 15, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-127 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration) [Filed May 21, 2002, 11:20 a.m.]

Subject of Possible Rule Making: Chapter 388-555 WAC, Interpreter services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 34.05 RCW, 74.08.090, 74.04.025 and SB 6832 (chapter 200, Laws of 2002).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: SB 6832, signed into law on March 27, 2002, gives the Department of Social and Health Services (DSHS) the authority to purchase interpreter services and interpreter brokerage services. To reduce cost and improve oversight, DSHS will be changing how interpreter services are purchased. The Medical Assistance Administration (MAA) is the lead for DSHS in making these changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Center for Medicaid Medicare Services, Office of Civil Rights, and Washington State Department of Social and Health Services. Coordination of this rule will be done by MAA and interested parties will be invited to participate in the rule-making process.

Process for Developing New Rule: The workgroup will produce draft language for the rule and the department will invite the interested public to review and comment on the draft rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Myra Davis, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1306, fax (360) 586-9727, e-mail daviss@dshs.wa.gov.

May 17, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-139 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed May 22, 2002, 8:23 a.m.]

Subject of Possible Rule Making: Family care, chapter 296-130 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 49.78 RCW and chapter 243, Laws of 2002 (SSB 6426).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this project is to make changes resulting from legislation enacted in 2002 and to review the rules for possible clarifying and housekeeping changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individuals listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Josh Swanson, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail swaj235@lni.wa.gov.

May 22, 2002 Gary Moore Director

# WSR 02-11-140 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed May 22, 2002, 8:24 a.m.]

Subject of Possible Rule Making: WAC 296-62-071 Respiratory protection.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, [49.17].040, and [49.17].050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Department of Labor and Industries is proposing to clarify requirements relating to respiratory protection. We proposed to rewrite and reorganize the rule for clarity, while eliminating unnecessary requirements and outdated terminology.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies (other than OSHA) are known that regulate this subject.

Process for Developing New Rule: Parties interested in the formulation of these rules for proposal may contact the individuals listed below. The public may also participate by

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commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kimberly Rhoads, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5008, fax (360) 902-5529.

May 22, 2002 Gary Moore Director

# WSR 02-11-142 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Juvenile Rehabilitation Administration) [Filed May 22, 2002, 10:21 a.m.]

Subject of Possible Rule Making: Chapter 388-730 WAC, Placement of juvenile offenders in juvenile rehabilitation administration (JRA) and related sections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 72.05.150, 13.40.460.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 72.05.150 permits the Department of Social and Health Services to establish minimum-security facilities. Rules regarding the minimum security institutions will provide further detail on the types [of] facility programs provided.

Process for Developing New Rule: The Department of Social and Health Services (DSHS) will utilize the Juvenile Rehabilitation Administration (JRA) division of community programs staff and the JRA regional administrators to review draft rule changes. DSHS will send the draft rule changes to internal and external stakeholders. DSHS will work collaboratively with the community facility providers in amending the rules. DSHS welcomes the public to take part in developing the rule. Anyone interested in participating should contact the staff person indicated below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathleen McBride, Office Chief, Office of Treatment and Intergovernmental Services, P.O. Box 45720, Olympia, WA 98504, phone (360) 902-8092, fax (360) 902-8108, TTY (360) 902-7862, e-mail mcbridmk @dshs.wa.gov.

May 21, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-144 PREPROPOSAL STATEMENT OF INQUIRY BOARD OF INDUSTRIAL INSURANCE APPEALS

[Filed May 22, 2002, 10:54 a.m.]

Subject of Possible Rule Making: Rules pertaining to procedures used in hearings conducted by the board and its industrial appeals judges.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.52.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarification of procedures, clarification of duties of industrial appeals judges and house-keeping changes to align rules with statutory and regulatory changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David E. Threedy, Executive Secretary, (360) 753-9646, fax (360) 586-5611.

> May 22, 2002 David E. Threedy Executive Secretary

# WSR 02-11-145 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FISH AND WILDLIFE

[Filed May 22, 2002, 10:57 a.m.]

Subject of Possible Rule Making: Personal use fishing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A need for sturgeon protection exists in the upper Columbia tributaries that were not closed to sturgeon fishing in the recently adopted sport rule package. A change in crawfish harvest rules will allow fishing at night and expand recreational opportunity. Kalama hatchery steelhead need to be released to determine the possibility of using hatchery stock in natural spawning. A breach in the earthen dam at the No. 2 powerhouse on the Lewis River Power Canal warrants closure of part of the Power Canal and the old Lewis River streambed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lew Atkins, Fish Program Assistant Director, 600 Capitol Way North, Olympia, WA 985011091, (360) 902-2651. Contact by July 3, 2002, expected proposal filing July 5, 2002.

May 22, 2002 Evan Jacoby Rules Coordinator Assistant for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985, or (360) 570-6175.

May 22, 2002
Alan R. Lynn, Rules Coordinator
Legislation and Policy Division

# WSR 02-11-148 PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed May 22, 2002, 11:24 a.m.]

Subject of Possible Rule Making: WAC 458-20-135 Extracting natural products.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to persons extracting natural products. Persons extracting natural products often use the same extracted products in a manufacturing process. The rule provides guidance for determining when an extracting activity ends and the manufacturing activity begins.

The department is considering a revision to this rule to incorporate provisions of chapter 118, Laws of 2001, which in part changed the definition of "extractor" to specifically recognize and exclude "farmers" as defined in RCW 82.04.213. The department is also considering restructuring the information provided in subsection (2)(b)(ii), which provides guidance as to when an extracting activity ends and manufacturing begins for commercial fishing, and adding an example to subsection (3), which explains the tax-reporting responsibilities for income received by extractors.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, email, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary discussion draft of a possible new or revised rule(s) is available upon request. Written comments on and/or requests for copies of the draft may be directed to Pat Moses, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6117, e-mail PatM@dor.wa.gov, fax (360) 664-0693.

Date and Location of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 5, 2002, at 9:30 a.m.

# WSR 02-10-115 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration) [Filed April 30, 2002, Filed 4:33 p.m.,]

Supplemental Notice to WSR 01-21-106.

Preproposal statement of inquiry was filed as WSR 01-05-027.

Title of Rule: Amending WAC 388-543-1000 Definitions for durable medical equipment (DME) etc., 388-543-1100 Scope of coverage and coverage limitations for DME, etc., 388-543-1300 Equipment, etc. not covered, and 388-543-2200 Augmentative communication devices (ACD).

Purpose: The amended sections were previously proposed under WSR 01-21-106. Since that proposal, MAA met with interested stakeholders to further discuss balancing department policy and fiscal restraints with client needs. The rules are necessary in order to change the name of augmentative communication device (ACD) to speech generating device (SGD) to reflect Medicare terminology; to further explain criteria for department-covered SGDs; and to ensure that department policy follows Medicare guidelines.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.530.

Statute Being Implemented: RCW 74.08.090, 74.09.530.

Summary: See Purpose above.

Reasons Supporting Proposal: To clarify department policy regarding SGDs.

Name of Agency Personnel Responsible for Drafting: Ann Myers, DPS/RIP, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1345; Implementation and Enforcement: Sharon Morrison, DHSQS/QU, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1671.

Name of Proponent: Department of Social and Health Services, Medical Assistance Administration, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule proposed above clarifies department policy regarding SGDs (formerly known as augmentative communication devices (ACDs)), especially the criteria for a device to be classified as a department-covered SGD. The purpose of the rule is to clearly state department policy. The anticipated effect is to make department policy clearly understandable to providers and clients.

Proposal Changes the Following Existing Rules: The rules above amend WAC 388-543-1000, 388-543-1100, 388-543-1300, and 388-543-2200 to clarify current policy. This includes amending the definition of SGD and further explaining the criteria for a device to be classified as a department-covered SGD.

No small business economic impact statement has been prepared under chapter 19.85 RCW. MAA analyzed the proposed rules and concluded that they will not place "a more than minor" impact on the businesses affected by them. Therefore, a comprehensive small business economic impact statement is not required.

RCW 34.05.328 applies to this rule adoption. MAA has analyzed the proposed rules and concludes that they meet the definition of a "significant legislative rule." MAA evaluated the probable costs and probable benefits of the proposed rules, taking into account both the qualitative and quantitative benefits and costs. MAA's analysis revealed that any new costs imposed on the businesses affected by them would be minor. The probable benefits of allowing providers to furnish specific, prior authorized computer-based SGDs to clients exceed the probable costs. A complete evaluation is available from the department representatives identified above.

Hearing Location: Office Building 2 Auditorium (DSHS Headquarters) (parking entrance at 12th and Washington), 1115 Washington, Olympia, WA, on June 25, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, Rules Coordinator, by June 15, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaAX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 25, 2002.

Date of Intended Adoption: Not sooner than June 26, 2002.

April 26, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

WAC 388-543-1000 Definitions for durable medical equipment (DME) and related supplies, prosthetics, and orthotics, medical supplies and related services. The following definitions and abbreviations and those found in WAC 388-500-0005 apply to this chapter. Defined words and phrases are bolded the first time they are used in the text.

"Artificial limb" - See "prosthetic device."

"Augmentative communication device (ACD)" ((means a medical device that transmits or produces messages or symbols, either by voice output or in writing, in a manner that compensates for the impairment or disability of a client with severe expressive or language communication and comprehension disorders. The communication device may use mechanical or electrical impulses to produce messages or symbols that supplement or replace speech)) - See "speech generating device (SGD).

"Base year" means the year of the data source used in calculating prices.

"By report (BR)" means a method of reimbursement for covered items, procedures, and services for which the department has no set maximum allowable fees.

"Date of delivery" means the date the client actually took physical possession of an item or equipment.

"Disposable supplies" means supplies which may be used once, or more than once, but are time limited.

"Durable medical equipment (DME)" means equipment that: (1) Can withstand repeated use;

- (2) Is primarily and customarily used to serve a medical purpose;
- (3) Generally is not useful to a person in the absence of illness or injury; and
- (4) Is appropriate for use in the client's place of residence.

"EPSDT((/healthy kids))" - See WAC 388-500-0005.

"Expedited prior authorization (EPA)" means the process for obtaining authorization for selected durable medical equipment, and related supplies, prosthetics, orthotics, medical supplies and related services, in which providers use a set of numeric codes to indicate to MAA which acceptable indications/conditions/MAA-defined criteria are applicable to a particular request for DME authorization.

"Fee-for-service (FFS)((5))" means the general payment method MAA uses to reimburse for covered medical services provided to clients, except those services covered under MAA's managed care programs.

"Health care financing administration common procedure coding system (HCPCS)" means a coding system established by the Health Care Financing Administration (HCFA) to define services and procedures. HCFA is now known as the Centers for Medicare and Medicaid Services (CMS).

"House wheelchair" means a nursing facility wheelchair that is included in the nursing facility's per-patient-day rate under chapter 74.46 RCW.

"Limitation extension" means an authorization process to exceed a coverage limitation (quantity, frequency, or duration) set in WAC, billing instructions, or numbered memoranda. Limitation extensions require prior authorization.

"Nonreusable supplies" are disposable supplies, which are used once and discarded.

"Manual wheelchair" - See "wheelchair - manual."

"Medical supplies" means supplies that are:

- (1) Primarily and customarily used to service a medical purpose; and
- (2) Generally not useful to a person in the absence of illness or injury.
- "Orthotic device" or "orthotic" means a corrective or supportive device that:
- (1) Prevents or corrects physical deformity or malfunction; or
  - (2) Supports a weak or deformed portion of the body.

"Personal or comfort item" means an item or service which primarily serves the comfort or convenience of the client.

"Personal computer (PC)" means any of a variety of electronic devices that are capable of accepting data and instructions, executing the instructions to process the data, and presenting the results. A PC has a central processing unit (CPU), internal and external memory storage, and various input/output devices such as a keyboard, display screen, and printer. A computer system consists of hardware (the physical components of the system) and software (the programs used by the computer to carry out its operations).

"Power-drive wheelchair" - See "wheelchair - power."

"Prior authorization" means a process by which clients or providers must request and receive MAA approval for certain medical equipment and related supplies, prosthetics, orthotics, medical supplies and related services, based on medical necessity, before the services are provided to clients, as a precondition for provider reimbursement. Expedited prior authorization and limitation extension are types of prior authorization. Also see WAC 388-501-0165.

"Prosthetic device" or "prosthetic" means a replacement, corrective, or supportive device prescribed by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice as defined by state law, to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct physical deformity or malfunction; or
  - (3) Support a weak or deformed portion of the body.

"Resource based relative value scale (RBRVS)" means a scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involve.

"Reusable supplies" are supplies which are to be used more than once.

"Scooter" means a federally-approved, motor-powered vehicle that:

- (1) Has a seat on a long platform;
- (2) Moves on either three or four wheels;
- (3) Is controlled by a steering handle; and
- (4) Can be independently driven by a client.

"Specialty bed" means a pressure reducing support surface, such as foam, air, water, or gel mattress or overlay.

"Speech generating device (SGD)" means an electronic device or system that compensates for the loss or impairment of a speech function due to a congenital condition, an acquired disability, or a progressive neurological disease. The term includes only that equipment used for the purpose of communication. Formerly known as "augmentative communication device (ACD)."

"Three- or four-wheeled scooter" means a three- or four-wheeled vehicle meeting the definition of scooter (see "scooter") and which has the following minimum features:

- (1) Rear drive;
- (2) A twenty-four volt system;
- (3) Electronic or dynamic braking;
- (4) A high to low speed setting; and
- (5) Tires designed for indoor/outdoor use.

"Trendelenburg position" means a position in which the patient is lying on his or her back on a plane inclined thirty to forty degrees. This position makes the pelvis higher than the head, with the knees flexed and the legs and feet hanging down over the edge of the plane.

"Usual and customary charge" means the amount the provider typically charges to fifty percent or more of his or her non-Medicaid clients, including clients with other third-party coverage.

"Warranty-wheelchair" means a warranty, according to manufacturers' guidelines, of not less than one year from the date of purchase.

"Wheelchair - manual" means a federally-approved, nonmotorized wheelchair that is capable of being independently propelled and fits one of the following categories:

- (1) Standard:
- (a) Usually is not capable of being modified;
- (b) Accommodates a person weighing up to two hundred fifty pounds; and
  - (c) Has a warranty period of at least one year.
  - (2) Lightweight:
  - (a) Composed of lightweight materials;
  - (b) Capable of being modified;
- (c) Accommodates a person weighing up to two hundred fifty pounds; and
  - (d) Usually has a warranty period of at least three years.
  - (3) High strength lightweight:
  - (a) Is usually made of a composite material;
  - (b) Is capable of being modified;
- (c) Accommodates a person weighing up to two hundred fifty pounds;
- (d) Has an extended warranty period of over three years; and
  - (e) Accommodates the very active person.
  - (4) Hemi:
- (a) Has a seat-to-floor height lower than eighteen inches to enable an adult to propel the wheelchair with one or both feet: and
- (b) Is identified by its manufacturer as "Hemi" type with specific model numbers that include the "Hemi" description.
- (5) Pediatric: Has a narrower seat and shorter depth more suited to pediatric patients, usually adaptable to modifications for a growing child.
- (6) Recliner: Has an adjustable, reclining back to facilitate weight shifts and provide support to the upper body and head.
- (7) Tilt-in-space: Has a positioning system, which allows both the seat and back to tilt to a specified angle to reduce shear or allow for unassisted pressure releases.
  - (8) Heavy Duty:
- (a) Specifically manufactured to support a person weighing up to three hundred pounds; or
- (b) Accommodating a seat width of up to twenty-two inches wide (not to be confused with custom manufactured wheelchairs).
- (9) Rigid: Is of ultra-lightweight material with a rigid (nonfolding) frame.
  - (10) Custom heavy duty:
- (a) Specifically manufactured to support a person weighing over three hundred pounds; or
- (b) Accommodates a seat width of over twenty-two inches wide (not to be confused with custom manufactured wheelchairs).
  - (11) Custom manufactured specially built:
- (a) Ordered for a specific client from custom measurements; and
  - (b) Is assembled primarily at the manufacturer's factory.
- "Wheelchair power" means a federally-approved, motorized wheelchair that can be independently driven by a client and fits one of the following categories:
  - (1) Custom power adaptable to:

- (a) Alternative driving controls; and
- (b) Power recline and tilt-in-space systems.
- (2) Noncustom power: Does not need special positioning or controls and has a standard frame.
- (3) Pediatric: Has a narrower seat and shorter depth that is more suited to pediatric patients. Pediatric wheelchairs are usually adaptable to modifications for a growing child.

AMENDATORY SECTION (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

WAC 388-543-1100 Scope of coverage and coverage limitations for DME and related supplies, prosthetics, orthotics, medical supplies and related services. The federal government deems durable medical equipment (DME) and related supplies, prosthetics, orthotics, and medical supplies as optional services under the Medicaid program, except when prescribed as an integral part of an approved plan of treatment under the home health program or required under the early and periodic screening, diagnosis and treatment (EPSDT)((healthy kids)) program. The department may reduce or eliminate coverage for optional services, consistent with legislative appropriations.

- (1) The medical assistance administration (MAA) covers DME and related supplies, prosthetics, orthotics, medical supplies, related services, repairs and labor charges when all of the following apply. They must be:
- (a) Within the scope of an eligible client's medical care program (see chapter 388-529 WAC);
- (b) Within accepted medical or physical medicine community standards of practice;
- (c) Prior authorized as described in WAC 388-543-1600, 388-543-1800, and 388-543-1900;
- (d) Prescribed by a qualified **provider**, acting within the scope of the provider's practice. The prescription must state the specific item or service requested, diagnosis, prognosis, estimated length of need (weeks or months, not to exceed six months before being reevaluated), and quantity;
- (e) Billed to the department as the payor of last resort only. MAA does not pay first and then collect from Medicare;
- (f) Medically necessary as defined in WAC 388-500-0005. The provider or client must submit sufficient objective evidence to establish medical necessity. Information used to establish medical necessity includes, but is not limited to, the following:
- (i) A physiological description of the client's disease, injury, impairment, or other ailment, and any changes in the client's condition written by the prescribing physician, licensed prosthetist and/or orthotist, physical therapist, occupational therapist, or speech therapist; or
- (ii) Video and/or photograph(s) of the client demonstrating the impairments as well and client's ability to use the requested equipment, when applicable.
- (2) MAA evaluates a request for any equipment or devices that are listed as noncovered in WAC 388-543-1300 under the provisions of WAC 388-501-0165.
- (3) MAA evaluates a request for a service that is in a covered category, but has been determined to be experimen-

tal or investigational under WAC 388-531-0050, under the provisions of WAC 388-501-0165 which relate to medical necessity.

- (4) MAA evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions when medically necessary, under the standards for covered services in WAC 388-501-0165.
- (5) MAA does not reimburse for DME and related supplies, prosthetics, orthotics, medical supplies, related services, and related repairs and labor charges under **fee-for-service** (FFS) when the client is any of the following:
  - (a) An inpatient hospital client;
- (b) Eligible for both Medicare and Medicaid, and is staying in a nursing facility in lieu of hospitalization;
  - (c) Terminally ill and receiving hospice care; or
- (d) Enrolled in a risk-based managed care plan that includes coverage for such items and/or services.
- (6) MAA covers medical equipment and related supplies, prosthetics, orthotics, medical supplies and related services, repairs, and labor charges listed in MAA's published issuances, including Washington Administrative Code (WAC), billing instructions, and numbered memoranda.
- (7) An interested party may request MAA to include new equipment/supplies in the billing instructions by sending a written request plus all of the following:
  - (a) Manufacturer's literature;
  - (b) Manufacturer's pricing;
- (c) Clinical research/case studies (including FDA approval, if required); and
- (d) Any additional information the requester feels is important.
- (8) MAA bases the decision to purchase or rent DME for a client, or to pay for repairs to client-owned equipment on medical necessity.
- (9) MAA covers replacement batteries for purchased medically necessary DME equipment covered within this chapter.
- (10) MAA covers the following categories of medical equipment and supplies only when they are medically necessary, prescribed by a physician or other licensed practitioner of the healing arts, are within the scope of his or her practice as defined by state law, and are subject to the provisions of this chapter and related WACs:
- (a) Equipment and supplies prescribed in accordance with an approved plan of treatment under the home health program;
  - (b) Wheelchairs and other DME;
  - (c) Prosthetic/orthotic devices;
  - (d) Surgical/ostomy appliances and urological supplies;
  - (e) Bandages, dressings, and tapes;
- (f) Equipment and supplies for the management of diabetes; and
- (g) Other medical equipment and supplies, as listed in MAA published issuances.
- (11) MAA evaluates a **BR** item, procedure, or service for its medical appropriateness and reimbursement value on a case-by-case basis.

- (12) For a client in a **nursing facility**, MAA covers only the following when medically necessary. All other DME and supplies identified in MAA billing instructions are the responsibility of the nursing facility, in accordance with chapters 388-96 and 388-97 WAC. See also WAC 388-543-2900 (3) and (4). MAA covers:
- (a) The purchase and repair of ((an augmentative communication device (ACD))) a speech generating device (SGD), a wheelchair for the exclusive full-time use of a permanently disabled nursing facility resident when the wheelchair is not included in the nursing facility's per diem rate, or a specialty bed; and
  - (b) The rental of a speciality bed.
- (13) Vendors must provide instructions for use of equipment; therefore, instructional materials such as pamphlets and video tapes are not covered.
- (14) Bilirubin lights are limited to rentals, for at-home newborns with jaundice.

AMENDATORY SECTION (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

WAC 388-543-1300 Equipment, related supplies, or other nonmedical supplies, and devices that are not covered. (1) MAA pays only for DME and related supplies, medical supplies and related services that are medically necessary, listed as covered, and meet the definition of DME and medical supplies as defined in WAC 388-543-1000 and prescribed per WAC 388-543-1100 and 388-543-1200.

- (2) MAA pays only for prosthetics or orthotics that are listed as such by the Centers for Medicare and Medicaid Services (CMS), formerly known as HCFA, that meet the definition of prosthetic and orthotic as defined in WAC 388-543-1000 and are prescribed per WAC 388-543-1100 and 388-543-1200.
- (3) MAA considers all requests for covered DME, related supplies and services, medical supplies, prosthetics, orthotics, and related services and noncovered equipment, related supplies and services, supplies and devices, under the provisions of WAC 388-501-0165 ((which relate to medical necessity)). When MAA considers that a request does not meet the requirement for medical necessity, the definition(s) of covered item(s), or is not covered, the client may appeal that decision under the provisions of WAC 388-501-0165.
- (4) MAA specifically excludes services and equipment in this chapter from fee-for-service (FFS) scope of coverage when the services and equipment do not meet the definition for a covered item, or the services are not typically medically necessary. This exclusion does not apply if the services and equipment are ((required under the EPSDT/healthy kids program<sub>3</sub>)):
- (a) Included as part of a managed care plan service package( $(\frac{1}{2})$ );
  - (b) Included in a waivered program((, or));
- (c) Part of one of the Medicare programs for qualified Medicare beneficiaries; or
- (d) Requested for a child who is eligible for services under the EPSDT program. MAA reviews these requests according to the provisions of chapter 388-534 WAC.

Proposed [4]

- (5) Excluded services and equipment include, but are not limited to:
- (((1))) (a) Services, procedures, treatment, devices, drugs, or the application of associated services that the department of the Food and Drug Administration (FDA) and/or the Centers for Medicare and Medicaid Services (DMS), formerly known as the Health Care Financing Administration (HCFA) consider investigative or experimental on the date the services are provided;
  - (((2))) (b) Any service specifically excluded by statute;
- (((3))) (c) A client's utility bills, even if the operation or maintenance of medical equipment purchased or rented by MAA for the client contributes to an increased utility bill (refer to the aging and adult services administration's (AASA) COPES program for potential coverage);
  - (((4))) (d) Hairpieces or wigs;
- (((5))) (e) Material or services covered under manufacturers' warranties;
- (((6))) (f) Shoe lifts less than one inch, arch supports for flat feet, and nonorthopedic shoes;
- ((<del>(7)</del>)) (g) Outpatient office visit supplies, such as tongue depressors and surgical gloves;
- (((8))) (h) Prosthetic devices dispensed solely for cosmetic reasons (refer to WAC 388-531-0150 (1)(d);
- (((9))) (i) Home improvements and structural modifications, including but not limited to the following:
- $((\frac{(a)}{(a)}))$  (i) Automatic door openers for the house or garage;
  - ((<del>(b)</del>)) (ii) Saunas;
- (((e))) (iii) Security systems, burglar alarms, call buttons, lights, light dimmers, motion detectors, and similar devices;
  - (((d))) (iv) Swimming pools;
- $((\frac{(e)}{(v)}))$  Whirlpool systems, such as jacuzzies, hot tubs, or spas; or
  - ((<del>(f)</del>)) (vi) Electrical rewiring for any reason;
  - (((g))) (vii) Elevator systems and elevators; and
  - (((h))) (viii) Lifts or ramps for the home; or
  - $((\frac{1}{2}))$  (ix) Installation of bathtubs or shower stalls.
- ((<del>(10)</del>)) (j) Nonmedical equipment, supplies, and related services, including but not limited to, the following:
- ((<del>(a)</del>)) (<u>i)</u> Back-packs, pouches, bags, baskets, or other carrying containers;
- (((b))) (ii) Bed boards/conversion kits, and blanket lifters (e.g., for feet);
- (((e))) (iii) Car seats for children under five, except for positioning car seats that are prior authorized. Refer to WAC 388-543-1700(13) for car seats;
- (((d))) (iv) Cleaning brushes and supplies, except for ostomy-related cleaners/supplies;
- (((e))) (v) Diathermy machines used to produce heat by high frequency current, ultrasonic waves, or microwave radiation;
- ((<del>(f)</del>)) <u>(vi)</u> Electronic communication equipment, installation services, or service rates, including but not limited to, the following:
- $((\frac{i}{i}))$  (A) Devices intended for amplifying voices (e.g., microphones);
- (((ii))) (B) Interactive communications computer programs used between patients and healthcare providers (e.g., hospitals, physicians), for self care home monitoring, or

- emergency response systems and services (refer to AASA COPES or outpatient hospital programs for emergency response systems and services);
  - (((iii))) (C) Two-way radios; and
  - (((iv))) (D) Rental of related equipment or services;
- (((g))) (vii) Environmental control devices, such as air conditioners, air cleaners/purifiers, dehumidifiers, portable room heaters or fans (including ceiling fans), heating or cooling pads;
  - (((h))) (viii) Ergonomic equipment;
- (((i))) (ix) Exercise classes or equipment such as exercise mats, bicycles, tricycles, stair steppers, weights, trampolines;
  - $((\frac{1}{1}))$  (x) Generators;
  - (((k) Personal computers including laptops,))
- (xi) Computer software other than speech generating, printers, and computer accessories (such as anti-glare shields, backup memory cards)((, and computer equipment other than specified in WAC 388-543-2200));
- ((<del>(1)</del>)) (xii) Computer utility bills, telephone bills, Internet service, or technical support for computers or electronic notebooks;
- (xiii) Any communication device that is useful to someone without severe speech impairment (e.g., cellular telephone, walkie-talkie, pager, or electronic notebook);
- (xiv) Racing strollers/wheelchairs and purely recreational equipment;
  - (((m))) (xy) Room fresheners/deodorizers;
- (((n))) (xvi) Bidet or hygiene systems, paraffin bath units, and shampoo rings;
- (((e))) (xii) Timers or electronic devices to turn things on or off, which are not an integral part of the equipment;
- ((<del>(p)</del>)) (xiii) Vacuum cleaners, carpet cleaners/deodorizers, and/or pesticides/insecticides; or
- ((<del>(q)</del>)) (xix) Wheeled reclining chairs, lounge and/or lift chairs (e.g., geri-chair, posture guard, or lazy boy).
- (((11))) (k) Personal and **comfort items** that do not meet the DME definition, including but not limited to the following:
- (((a))) (i) Bathroom items, such as antiperspirant, astringent, bath gel, conditioner, deodorant, moisturizer, mouthwash, powder, shampoo, shaving cream, shower cap, shower curtains, soap (including antibacterial soap), toothpaste, towels, and weight scales;
- (((b))) (ii) Bedding items, such as bed pads, blankets, mattress covers/bags, pillows, pillow cases/covers and sheets;
- (((e))) (iii) Bedside items, such as bed trays, carafes, and over-the-bed tables;
- (((d))) (iv) Clothing and accessories, such as coats, gloves (including wheelchair gloves), hats, scarves, slippers, and socks;
- · (((e))) (v) Clothing protectors and other protective cloth furniture coverings;
- (((f))) (vi) Cosmetics, including corrective formulations, hair depilatories, and products for skin bleaching, commercial sun screens, and tanning;
  - $((\frac{g}{g}))$  (vii) Diverter valves for bathtub;
  - (((h))) (viii) Eating/feeding utensils;
  - (((i))) (ix) Emesis basins, enema bags, and diaper wipes;

- $((\frac{1}{2}))$  (x) Health club memberships;
- (((k))) (xi) Hot or cold temperature food and drink containers/holders;
- (((1))) (xii) Hot water bottles and cold/hot packs or pads not otherwise covered by specialized therapy programs;
  - (((m))) (xiii) Impotence devices;
  - (((n))) (xiv) Insect repellants;
  - (((o))) (xv) Massage equipment;
- (((p))) (xvi) Medication dispensers, such as med-collators and count-a-dose, except as obtained under the compliance packaging program. See chapter 388-530 WAC;
- (((q))) (xvii) Medicine cabinet and first aid items, such as adhesive bandages (e.g., Band-Aids, Curads), cotton balls, cotton-tipped swabs, medicine cups, thermometers, and tongue depressors;
  - (((r))) (xviii) Page turners;
  - (((s))) (xix) Radio and television;
- (((t))) (xx) Telephones, telephone arms, cellular phones, electronic beepers, and other telephone messaging services; and
- ((<del>(u)</del>)) (xxi) Toothettes and toothbrushes, waterpics, and peridontal devices whether manual, battery-operated, or electric.
- (((12))) (1) Certain wheelchair features and options are not considered by MAA to be medically necessary or essential for wheelchair use. This includes, but is not limited to, the following:
  - (((a))) (i) Attendant controls (remote control devices);
- (((<del>b)</del>)) (ii) Canopies, including those for strollers and other equipment;
- (((e))) (iii) Clothing guards to protect clothing from dirt, mud, or water thrown up by the wheels (similar to mud flaps for cars):
- $((\frac{d}{d}))$  (iv) Identification devices (such as labels, license plates, name plates);
  - (((e))) (v) Lighting systems;
  - (((f))) (vi) Speed conversion kits; and
- $((\frac{g}{g}))$  (vii) Tie-down restraints, except where medically necessary for client-owned vehicles.

AMENDATORY SECTION (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

- WAC 388-543-2200 ((Augmentative communication)) Speech generating devices (((ACD))) (SGD). (1) MAA considers all requests for speech generating devices (SGDs) on a case-by-case basis ((for augmentative communication devices (ACDs) for the purpose of appropriately relaying medical information.
- (2))). The SGD requested must be for a severe expressive speech impairment, and the medical condition must warrant the use of a device to replace verbal communication (e.g., to communicate medical information).
- (2) In order for MAA to cover an SGD, the SGD must be a speech device intended for use by the individual who has a severe expressive speech impairment, and have one of the following characteristics. For the purposes of this section, MAA uses the Medicare definitions for "digitized speech" and "synthesized speech" that were in effect as of April 1, 2002. The SGD must have:

- (a) Digitized speech output, using pre-recorded messages;
- (b) Synthesized speech output requiring message formation by spelling and access by physical contact with the device; or
- (c) Synthesized speech output, permitting multiple methods of message formulation and multiple methods of device access.
- (3) MAA requires a provider to submit a prior authorization request for ((ACDs)) SGDs. The request must be in writing and contain all of the following information:
- (a) A detailed description of the client's therapeutic history((\(\frac{1}{2}\)), including, at a minimum:
  - (i) The medical diagnosis;
- (ii) A physiological description of the underlying disorder;
  - (iii) A description of the functional limitations; and
  - (iv) The prognosis for improvement or degeneration.
- (b) ((An)) A written assessment by a licensed speech language pathologist ((of the client's verbal capabilities. The pathologist must be knowledgeable about selecting ACDs that meet the client's needs;
  - (e))) (SLP) that includes all of the following:
- (i) If the client has a physical disability, condition, or impairment that requires equipment, such as a wheelchair, or a device to be specially adapted to accommodate an ((ACD)) SGD, an assessment by the prescribing physician, licensed occupational therapist or physical therapist; ((and))
- (((d))) (ii) Documented evaluations and/or trials of each ((ACD)) SGD that the client has tried. This includes less costly types/models, and the effectiveness of each device in promoting the client's ability to communicate with health care providers, caregivers, and others((-
  - (3) MAA requires));
- (iii) The current communication impairment, including the type, severity, language skills, cognitive ability, and anticipated course of the impairment;
- (iv) An assessment of whether the client's daily communication needs could be met using other natural modes of communication;
- (v) A description of the functional communication goals expected to be achieved, and treatment options;
- (vi) Documentation that the client's speaking needs cannot be met using natural communication methods; and
- (vii) Documentation that other forms of treatment have been ruled out.
- (c) The provider ((to show or the client to demonstrate)) has shown or has demonstrated all of the following:
- (((a))) (i) The client has reliable and consistent motor response, which can be used to communicate with the help of an ((ACD)) SGD;
- (((b))) (ii) The client has demonstrated the cognitive ((ability)) and physical abilities to utilize the equipment effectively and independently ((utilize the equipment)) to communicate; and
- (((e) With the ADC, the client will be able to do all of the following:
- (i) Communicate with the personal physician about the medical condition, complaint, ailment, or symptoms;

- (ii) Communicate with the personal caregiver about both urgent medical needs and routine personal care needs; and
- (iii) Communicate with medical personnel who provide emergency services, rehabilitative care, and other therapeutic treatment.

<del>(4)</del>))

- (iii) The client's treatment plan includes a training schedule for the selected device.
- (d) A prescription for the SGD from the client's treating physician.
- (4) MAA may require trial-use rental. All rental costs for the trial-use will be applied to the purchase price.
- (5) MAA covers ((ACDs)) SGDs only once every two years for a client who meets the criteria in subsection ((3)) (5) of this section. MAA does not approve a new or updated component, modification, or replacement model for a client whose ((ACD is less than two years old)) SGD can be repaired or modified. MAA may make exceptions to the criteria in this subsection based strictly on a finding of unforeseeable and significant changes to the client's medical condition. The prescribing physician is responsible for justifying why the changes in the client's medical condition were unforeseeable.
- (6) Clients who are eligible for both Medicare and Medicaid must apply first to Medicare for an SGD. If Medicare denies the request and the client requests an SGD from MAA, MAA evaluates the request based on medical necessity and the requirements in this section. The request for an SGD must meet the authorization requirements in this section.

# WSR 02-11-010 PROPOSED RULES DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed May 3, 2002, 10:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-05-045.

Title of Rule: Regulatory relief for small credit unions.

Purpose: To provide appropriate regulatory relief for small credit unions (those with up to \$10 million in total assets).

Statutory Authority for Adoption: RCW 31.12.516 (2), (3), (4), 43.17.060, 43.320.040.

Statute Being Implemented: RCW 31.12.516(3).

Summary: The rule provides more regulatory flexibility for small credit unions in regard to scheduling of special meetings of members, and the number of regular board meetings.

Reasons Supporting Proposal: To eliminate unnecessary regulatory burden on small credit unions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Linda Jekel, 210 11th Street S.W., Room 300, Olympia, WA 98501, (360) 902-8753.

Name of Proponent: Division of Credit Unions, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule allows small credit unions:

- 1. To schedule special meetings of members from ten to one hundred twenty days after a request for a special meeting is received by the credit union's secretary, as provided in the credit union's bylaws. The current rule requires special meetings to be scheduled from twenty to thirty days after the request is received; and
- 2. To hold as few as nine regular board meetings each calendar year, no more than eight weeks apart, as provided in the credit union's bylaws. The current rule requires regular board meetings to be held monthly.

On another aspect of small credit unions' supervision, the division is aware that the scheduling of on-site examinations of small credit unions can create staffing problems for them. For example, an exam can prove challenging at the beginning of a calendar quarter, when small credit unions must devote staff to the preparation of financial statements and/or call reports. The division intends to work with small credit unions to avoid scheduling their exams during these problematic time periods.

Partly in response to recommendation from the Washington Credit Union League's Small Credit Union Task Force, the division recently adopted new field of membership (FOM) rules which streamlined the process for credit unions to add FOM groups to their FOM bylaws. These new FOM rules will significantly reduce the regulatory burden on small credit unions in adding FOM groups. The new rules took effect on March 8, 2002.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule reduces the cost of regulatory compliance and makes existing rules more flexible. It does not add any costs of compliance.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not include the Department of Financial Institutions as a covered agency.

Hearing Location: Department of Financial Institutions, 210 11th Street S.W., Room 300, Olympia, WA 98501, on June 25, 2002, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Tina Philippsen by 4:30 p.m., June 19, 2002, TDD (360) 664-8126.

Submit Written Comments to: Linda Jekel, 210 11th Street S.W., Room 300, Olympia, WA 98501, e-mail ljekel@dfi.wa.gov, fax (360) 704-6901, by June 25, 2002.

Date of Intended Adoption: June 25, 2002.

May 3, 2002 Mark Thomson Acting Director

# Chapter 208-424 WAC

# REGULATORY RELIEF FOR SMALL CREDIT UNIONS

# **NEW SECTION**

WAC 208-424-010 Definition of small credit union. For purposes of this chapter, a "small credit union" means a credit union with up to ten million dollars in total assets as of its most recently filed call report.

# **NEW SECTION**

WAC 208-424-020 Timing of special membership meetings of small credit unions. In regard to timing of special membership meetings, the last sentence of RCW 31.12.195(3) states:

"The designated time of the membership meeting must be no sooner than twenty, and no later than thirty days after the request is received by the secretary."

A small credit union may vary from the last sentence of RCW 31.12.195(3) as provided in its bylaws, as long as it is a small credit union at the time the request for a special membership meeting is received by the secretary. However, the designated time of the special membership meeting must be no sooner than ten, and no later than one hundred twenty days, after the request is received by the secretary. In all other respects, a small credit union must comply with RCW 31.12.195.

# **NEW SECTION**

WAC 208-424-030 Frequency of regular meetings of board of directors of small credit unions. In regard to timing of regular board meetings, RCW 31.12.225(5) states:

"The board will have regular meetings not less frequently than once each month."

A small credit union may vary from RCW 31.12.225(5) as provided in its bylaws. However, a small credit union must have at least nine regular board meetings each calendar year, and consecutive regular board meetings must be no more than ten weeks apart. In all other respects, a small credit union must comply with RCW 31.12.225.

# WSR 02-11-023 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(By the Code Reviser's Office)
[Filed May 7, 2002, 10:36 a.m.]

WAC 388-290-0195, proposed by the Department of Social and Health Services in WSR 01-20-077 appearing in issue 01-21 of the State Register, which was distributed on November 7, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted

within the one hundred eighty day period allowed by the statute

Kerry S. Radcliff, Editor Washington State Register

# WSR 02-11-024 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING

(By the Code Reviser's Office) [Filed May 7, 2002, 10:36 a.m.]

WAC 308-104-018, proposed by the Department of Licensing in WSR 01-21-110 appearing in issue 01-21 of the State Register, which was distributed on November 7, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor Washington State Register

# WSR 02-11-025 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF FISH AND WILDLIFE

(By the Code Reviser's Office) [Filed May 7, 2002, 10:36 a.m.]

WAC 232-12-245, proposed by the Department of Fish and Wildlife in WSR 01-21-116 appearing in issue 01-21 of the State Register, which was distributed on November 7, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor Washington State Register

# WSR 02-11-026 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF FISH AND WILDLIFE

(By the Code Reviser's Office) [Filed May 7, 2002, 10:37 a.m.]

WAC 220-52-050, proposed by the Department of Fish and Wildlife in WSR 01-21-127 appearing in issue 01-21 of the State Register, which was distributed on November 7, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor Washington State Register

# WSR 02-11-027 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF FISH AND WILDLIFE

(By the Code Reviser's Office) [Filed May 7, 2002, 10:37 a.m.]

WAC 220-77-100 and 220-77-105, proposed by the Department of Fish and Wildlife in WSR 01-21-129 appearing in issue 01-21 of the State Register, which was distributed on November 7, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute

Kerry S. Radcliff, Editor Washington State Register

# WSR 02-11-028 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF RETIREMENT SYSTEMS

(By the Code Reviser's Office) [Filed May 7, 2002, 10:37 a.m.]

WAC 415-501-305, proposed by the Department of Retirement Systems in WSR 01-21-132 appearing in issue 01-21 of the State Register, which was distributed on November 7, 2001, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor Washington State Register

# WSR 02-11-031 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)
[Filed May 7, 2002, 4:01 p.m.]

Supplemental Notice to WSR 01-23-074.

Preproposal statement of inquiry was filed as WSR 00-23-049.

Title of Rule: New WAC 388-112-0200 through 388-112-0410 Residential long-term care services—Training; and amending WAC 388-78A-050 Boarding homes.

Purpose: Implement SSB 6502 and SHB 2707 on training for adult family homes and boarding homes; combine training requirements for these settings into one WAC. Significant revisions have been made based on public comment to the proposal published in WSR 01-23-074.

This document compares draft **WAC 388-112-0200 through 388-112-0410** with the earlier version WAC 388-112-0180 through 388-112-0375, published in WSR 01-23-074.

# Changes in WAC numbering, including added and deleted sections:

Earlier version of chapter	New version of chapter			
388-112 WAC published	388-112 WAC			
as WSR 01-23-074	000 222 7772			
0180	0200			
0185	0205			
0190	0210			
0195	0215			
0200	Text only deleted as pro-			
0200	posed			
0205	0220			
0210	0225			
0215	0230			
	Added new 0235			
0220	0240			
0225	0245			
0230	0250			
0235	0255			
0240	0260			
0245	0265			
0250	0270			
0255	0275			
	Added new 0280			
0260	0285			
0265	0290			
0270	0295			
0275	Text only deleted as pro-			
	posed			
0280	0300			
0285	0305			
0290	0310			
0295	0315			
0300	0320			
0305	0325			
0310	0330			
0315	0335			
0320	0340			
0335(3)	0345			
	Added new 0350			
0325	0355			
0330	0360			
0335 (1) and (2)	0380			
0340	0365			
0345(1)	0370			
0345 (2)-(6)	0375			
0350	Moved to 0400			
0355	0385			
	·			

0360	0390	
0365	0395	
0350	0400	
0370	0405	
0375	0410	

Statutory Authority for Adoption: RCW 18.20.090 Boarding homes, 70.128.040 Adult family homes, 34.05.020.

Statute Being Implemented: Chapter 121, Laws of 2000, chapter 233, Laws of 2002.

Summary: Implements requirements for licensed boarding home administrators and caregivers to have continuing education; moves all training requirements for these two settings into one training WAC; implements processes for approval of alternative curricula and for instructors.

Reasons Supporting Proposal: Implementing statutes referenced above.

Name of Agency Personnel Responsible for Drafting: Dotti Wilke, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2539; Implementation and Enforcement: Marta Acedo, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2549.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule implements RCWs on training for adult family homes and boarding homes, and consolidates the current training rules for those settings into one place. The rule also sets the processes for approval of instructors and alternative curricula for certain trainings. New requirements in the RCW include requirements for licensed boarding homes for administrators or their designees, and caregivers to have continuing education. The rule has been revised based on public comment on the rule proposed in WSR 01-23-074.

Proposal Changes the Following Existing Rules: This proposal moves existing rules for residential care settings from two separate chapters into one new chapter 388-112 WAC.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The Department of Social and Health Services' Aging and Adult Services Administration (AASA) is proposing to create new chapter 388-112 WAC, Home and community long-term care services—Training. The new chapter contains the training rules for adult family homes, and boarding homes. The proposed rules have been changed in response to public comments.

New chapter 388-112 WAC consolidates training rules by including rules moved from:

- Chapter 388-76 WAC, Adult family homes;
- Chapter 388-78A WAC, Boarding homes; and
- Chapter 388-110 WAC, Contracted residential services.

The chapter also contains new rules implementing changes mandated by the following RCWs:

- Chapter 18.20 RCW, Boarding homes; and
- Chapter 70.128 RCW, Adult family homes.

The purpose of this chapter is to: Define minimum training requirements; define the types of training; clarify curriculum requirements and instructor requirements; and establish department procedures for approval of curricula and instructors.

The statutory authority for these chapters includes RCW 18.20.270 Boarding homes and 70.128.230 Adult family homes.

# The major proposed changes are:

- Incorporating a new requirement for orientation training for new staff in both settings, as required in chapters 18.20 and 70.128 RCW.
- Incorporating new training requirements for licensed boarding homes that do not contract with DSHS, including orientation, basic training, special needs (specialty) training, and continuing education, as required in RCW 18.20.270.
- Creating an approval system for alternative curricula for basic and specialty training, as required by RCW 18.20.270 Boarding homes and 70.128.230 Adult family homes.
- Creating an approval system for trainers as required by the RCWs.

Background of the proposed rule: In 1995, as part of long-term care reform, the legislature allocated funds for training during the following year. Providers and caregivers who were trained included:

- Caregivers in boarding homes that contract with DSHS; and
- All licensed adult family home providers and caregivers

In 1997, two task forces were created under the auspices of the legislature, to review caregiver training:

- The Joint Executive-Legislative Long Term Care Task Force's subcommittee on training. This task force reported to the legislature in December 1998 and January 2000.
- The training task force, which DSHS, the Department of Health, and the Nursing Care Quality Assurance Commission created, under legislative directives, to review caregiver training. This task force reported to the legislature in December 1998.

Recommendations from both task forces were key in establishing new training requirements created by legislation in the 2000 session. This same legislation created the Community Long Term Care Education and Training Steering Committee to advise the department on the development of rules to implement the new law. (See RCW 74.39A.190.) This steering committee has advised the department for two years on the development of these rules.

Goals for the proposed rules:

- Increase the number of caregivers who will be trained;
- Ensure that all caregivers have an orientation when they begin to work with residents; and

Allow more boarding homes and adult family homes to teach their own staff and use their own curricula.

Training improves caregiving skills and the quality of care delivered to more than 7,000 adults receiving care through these programs.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT: Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. This statute outlines information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses.

Aging and Adult Services Administration has analyzed the proposed amendments to their rules and has determined that small businesses will be impacted by these changes, with some costs considered "more than minor."

INDUSTRY ANALYSIS: Aging and Adult Services Administration is responsible for boarding home and adult family home licensing. As part of licensing, this state agency keeps current internal databases that identify all licensed facilities and agencies. Since internal industry information can be obtained at a more accurate level than is required by chapter 19.85 RCW, it is unnecessary to conduct an industry analysis using the four-digit standard industrial classification (SIC) codes.

**INVOLVEMENT OF SMALL BUSINESSES:** The data used in this analysis was gathered from several sources:

- The statewide organizations that represent the 2,084 adult family homes, and 513 boarding homes affected by these proposed rules.
- The residential care services and management services divisions of the Aging and Adult Services Administration.

The organizations that contributed current data on wages, benefits, and cost estimates for the businesses they represent, most of which are small businesses, include: Washington State Residential Care Council (AFH), the Adult Family Home Association (AFH), Washington Health Care Association (BH), Washington Association of Housing and Services for the Aging (BH), and Northwest Assisted Living Facilities Association (BH).

This proposed chapter has been developed with the advice of the Training Steering Committee, which has been meeting monthly for twenty-two months to consider and recommend the rules to implement these laws. Represented in this committee are small business members from the state-wide provider organizations mentioned above.

In addition, four public forums were held during the summer in (Bellevue, Lacey, Spokane, and Yakima) to discuss the rule development and take public comment on the proposed rules as recommended by the steering committee. Approximately 2,000 interested parties were invited; seventy-seven people attended and commented. Small businesses were represented at these forums, as well.

AASA staff have also regularly attended meetings with adult family home and boarding home providers for the past year to update them on the rule development and take their comments and suggestions. To reach those who could not

attend meetings, the proposed rules as recommended by the steering committee have been posted on the AASA Internet web site, with contact person information for anyone wishing to comment or make suggestions on the rule. All the input from these various groups and meetings has helped shape the development of this rule. Public comment on the earlier proposed chapter 388-112 WAC included comments from small businesses, and was considered and incorporated into the proposed rules.

cost of compliance: Costs related to record keeping: Each business must keep on file copies of certificates showing successful completion of required trainings for each of their employees. The only new record-keeping requirement for boarding homes that contract with DSHS and adult family homes is orientation. The new requirements for boarding homes that do not contract with DSHS include orientation, basic training, specialty training for some, and continuing education. Boarding homes that contract with DSHS already meet these requirements under contracting rules, so they will incur no additional costs. Training costs are included in the DSHS rates paid to both boarding homes and adult family homes. Keeping these certificates on file will result in a minor cost to the business.

Costs related to professional services: In estimating costs, AASA has chosen to assume that staff are trained onsite for orientation, and sent off-site for other trainings, with the intent that these are probably the highest cost scenarios. However, if a boarding home or adult family home chooses to contract with a trainer to come in and provide training in their own facility, this will result in costs for the professional services of a trainer. This training strategy, however, eliminates the costs of paying tuition and paying for travel time to and from training, for each trainee, and should reduce the overall costs of training.

Estimated training costs: Expected costs include:

- The trainer's wages and benefits (if an on-staff trainer is used, as for orientation);
- The trainee's wages and benefits; and
- Costs for training materials (if training is on site) or for tuition, if off-site.

See Tables 1 and 2 below for estimated costs for each type of provider.

To fairly consider costs of compliance, AASA has elected to look at costs per trainee. This is because there is no reliable data on the number of employees that will be required to have this training, or the rate of turnover, both of which affect total training costs.

In each setting, the most costly wage scenarios were generally used for cost estimates. Facilities may well be able to reduce these costs by making different choices. The assumptions include:

- For orientation, using a registered nurse as the orientation trainer, and assuming a one-on-one training, rather than in a group;
- For basic training, assuming the facility will pay tuition rather than providing training at the facility;
- For specialty, which is required only if the boarding home has residents with special needs, assuming the administrator (or designee) will attend the specialty

[11] Proposed

- training and then train their own caregivers at the facility:
- For continuing education, assuming the facility will pay tuition rather than providing training at the facility.

Circumstances that may be used to mitigate these costs are noted in the section on mitigating expenses, which follows the cost estimates.

# **Costs of Compliance for Boarding Homes:**

- Orientation is a new requirement for all boarding homes. It is always provided at the facility, by facility staff.
- Basic training is a new requirement for boarding homes that do not contract with DSHS. It may be provided by the facility or staff may be sent to another educator for training.
- Specialty training is a new requirement for all boarding homes that serve residents with special needs in dementia, mental health, or developmental disabilities.

Continuing education is a new requirement for boarding homes that do not contract with DSHS. It includes ten hours of training on caregiving issues, per calendar year. The requirement begins the second year after the basic training is completed. It may be provided by the facility, or staff may be sent to another educator for training.

Tables 1 and 2 below show estimated training costs for each type of provider. Based on public comments, a number of assumptions were changed, including:

- The number of hours of orientation was increased from two to three hours.
- Specialty training costs were added.
- One hour of travel time was added to basic and specialty training:
- Continuing education tuition was increased from \$5 to \$8 per hour.

**Table 1 Boarding Homes** 

Training	Personnel & other costs	Wages	Benefits & Taxes	Total per hour	Hours	Tuition (if applies)	Total Cost
Orientation	Trainer (RN)	\$24.24	\$6.14	\$30.38	3	N/A	\$91.14
	Trainee	\$9.15	\$2.32	\$11.48	3	N/A	\$34.44
	Materials						\$10.00
	Total per trainee						\$135.58
Basic	Trainee	\$9.15	\$2.32	\$11.47	28	\$129.00	\$450.16
	Travel				1		\$11.47
	Total						\$461.63
Specialty (Administrator)	Trainee	\$28.13	\$7.16	\$35.29	20	\$200	\$905.80
(/tuniumsdator)	Travel				1		\$35.29
	Total						\$941.09
Specialty (Caregiver)	Trainee	\$9.15	\$2.32	\$11.47	20	N/A	\$229.40
Continuing Edu-	Trainee	\$9.15	\$2.32	\$11.47	10	\$80.00	\$194.70

Costs of Compliance for Adult Family Homes: Orientation is a new requirement for all adult family homes. It is always provided at the facility, by facility staff.

**Table 2 Adult Family Homes** 

Training	Personnel, other costs	Wages	Benefits & Taxes	Total per hour	Hours	Tuition	Total Cost
Orientation	Trainer (RN)	\$24.24	\$6.14	\$30.38	3		\$91.14
	Trainee	\$9.15	\$2.32	\$11.47	3	\$0.00	\$34.44
	Materials						\$10.00
	Total						\$135.58

Disproportionate Economic Impact Analysis: When there are more than minor costs to small businesses as a result of proposed rule changes, the Regulatory Fairness Act requires an analysis to be done, comparing these costs between small businesses and 10% of the largest businesses.

All for-profit adult family homes are by nature small businesses; an adult family home can serve a maximum of six residents at a time, and so has a small number of employees. No data is available on the actual numbers of employees in boarding homes, but many or most boarding homes are small

businesses with fewer than fifty employees. While the pertrainee costs do not differ between small and large businesses, the costs may be a higher proportion of overall costs for a small business. AASA elected to focus on mitigating expenses regardless of results of comparing large and small businesses; therefore AASA considered this type of comparative analysis unnecessary. Therefore, AASA proposes several measures that will mitigate the impact of costs for small businesses.

Mitigating Expenses: Aging and Adult Services Administration has included the following to help mitigate training costs for small businesses:

- Orientation training costs can be significantly reduced if the person doing the orientation is not an RN (high wage rate). The organization has a choice of who to use in conducting the orientation training. For instance, if an LPN does the orientation, the median hourly wage is estimated to be \$15.72, and a social worker's median hourly wage is \$18.74 (compared to an RN at \$24.24). For instance, an RN's median hourly wage is estimated to be \$24.24. If an LPN does the orientation, the hourly wage drops to \$15.72; if a social worker does the orientation, the hourly wage is \$18.74. Both are qualified to do this training.
- Orientation training costs are further reduced if the facility orients more than one person at a time. This can be done any time the facility hires several new caregivers and has them start working at the same time.
- Individuals who have already been oriented at another facility can have a much briefer orientation at a new facility, which is a savings for the second business. The orientation can be shorter because basic information on the required topics will be consistent across facilities. The facility will be able to spend less time on basic information, and focus primarily on information specific to the facility.
- Basic training costs may be mitigated if the training is done on-site. The rules allow for facilities to train their own staff if the instructor(s) meet minimum qualifications. The instructor minimum qualifications have been reduced in the proposed rules. This means the facility does not have to pay tuition for each student, nor pay for travel time and expenses to the training.
- Individuals who take basic, specialty training, or continuing education will not be required to take it again if hired at another business where training is required, which is a savings for the second business.
- The revised rules allow the board home administrator or designee, or the adult family home provider or resident manager, to train their caregivers in specialty areas, resulting in tuition and travel savings for every caregiver.
- Specialty instructor qualifications have been lowered based on public comment.
- Boarding homes with a new requirement for basic training for caregivers will have up to one hundred twenty days following the effective date of the rule to meet the requirement.

- Specialty training may be completed up to ninety days after basic training is completed, spreading the costs over a longer period of time.
- Continuing education costs may be mitigated by holding this training at the facility rather than sending staff out to training, saving the costs of each person's tuition and travel. No pre-approval of curriculum or instructor is required.

### Additional cost savings:

- The orientation reduces the time it takes new employees to begin to provide quality care to residents, which translates into higher satisfaction for the clients, and better word-of-mouth publicity for the agency, which may increase income.
- Well-trained employees generally have higher job satisfaction and this leads to a lower turnover rate, significantly reducing overall costs. Turnover rates have been estimated as 50% or higher per year, for caregivers. Village Green, a Washington state boarding home, determined that monthly turnover for caregivers dropped from 21% to under 5% after implementing a thorough orientation program.

CONCLUSION: Aging and Adult Services Administration has given careful consideration to the impact of proposed rules in chapter 388-112 WAC, Home and community long-term care services—Training, on small businesses. In accordance with the Regulatory Fairness Act, chapter 19.85 RCW, Aging and Adult Services Administration has analyzed impacts on small businesses and proposed ways to mitigate those costs associated with implementing the training requirements in these rules. Training staff adequately to care for adult residents is a benefit to both the resident and the provider.

A copy of the statement may be obtained by writing to Tresa Harambasic, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2548, fax (360) 725-2646.

RCW 34.05.328 applies to this rule adoption. A cost benefit analysis has been prepared concerning these proposed rules, and may be obtained by contacting Tresa Harambasic, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2548, fax (360) 725-2646.

Hearing Location: Office Building 2 Auditorium (DSHS Headquarters) (parking at 12th and Washington), 1115 Washington, Olympia, WA 98504, on June 25, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 21, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs. wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 25, 2002.

Date of Intended Adoption: Not earlier than June 26, 2002.

May 2, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# SECTION VII—CONTINUING EDUCATION

# **NEW SECTION**

WAC 388-112-0200 What is continuing education? Continuing education is additional caregiving-related training designed to increase and keep current a person's knowledge and skills. DSHS does not pre-approve continuing education programs or instructors.

### **NEW SECTION**

WAC 388-112-0205 How many hours of continuing education are required each year? (1) Individuals subject to a continuing education requirement must complete at least ten hours of continuing education each calendar year (January 1 through December 31) after the year in which they successfully complete basic or modified basic training.

(2) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of continuing education.

# **NEW SECTION**

WAC 388-112-0210 What kinds of training topics are required for continuing education? Continuing education must be on a topic relevant to the care setting and care needs of residents, including but not limited to:

- (1) Resident rights;
- (2) Personal care (such as transfers or skin care);
- (3) Mental illness;
- (4) Dementia;
- (5) Developmental disabilities;
- (6) Depression;
- (7) Medication assistance;
- (8) Communication skills;
- (9) Positive resident behavior support;
- (10) Developing or improving resident centered activities;
- (11) Dealing with wandering or aggressive resident behaviors; and
  - (12) Medical conditions.

### **NEW SECTION**

WAC 388-112-0215 Is competency testing required for continuing education? Competency testing is not required for continuing education.

### **NEW SECTION**

WAC 388-112-0220 May basic or modified basic training be completed a second time and used to meet the

continuing education requirement? Re-taking basic or modified basic training may not be used to meet the continuing education requirement.

# **NEW SECTION**

WAC 388-112-0225 May specialty training be used to meet continuing education requirements? Specialty training and caregiver specialty training, except any specialty training completed through a challenge test, may be used to meet continuing education requirements.

- (1) If one or more specialty trainings are completed in the same year as basic or modified basic training, the specialty training hours may be applied toward the continuing education requirement for up to two calendar years following the year of completion of the basic and specialty trainings.
- (2) If one or more specialty trainings are completed in a different year than the year when basic or modified basic training was taken, the specialty training hours may be applied toward the continuing education requirement for the calendar year in which the specialty training is taken and the following calendar year.

### **NEW SECTION**

WAC 388-112-0230 May nurse delegation core training be used to meet continuing education requirements? Nurse delegation training under WAC 388-112-0175 may be applied toward continuing education requirements for the calendar year in which it is completed.

# **NEW SECTION**

WAC 388-112-0235 May residential care administrator training be used to meet continuing education requirements? Residential care administrator training under WAC 388-112-0275 may be used to meet ten hours of continuing education requirements.

# **NEW SECTION**

WAC 388-112-0240 What are the documentation requirements for continuing education? (1) The adult family home or boarding home must maintain documentation of continuing education including:

- (a) The trainee's name;
- (b) The title or content of the training;
- (c) The instructor's name or the name of the video, online class, professional journal, or equivalent instruction materials completed;
  - (d) The number of hours of training; and
  - (e) The date(s) of training.
- (2) The trainee must be given an original certificate or other documentation of continuing education.

### **NEW SECTION**

# WAC 388-112-0245 Who is required to complete continuing education training, and when? Adult Family Homes

- (1) Adult family home providers (including entity representatives as defined under chapter 388-76 WAC), resident managers, and caregivers must complete ten hours of continuing education each calendar year (January 1 through December 31) after the year in which they successfully complete basic or modified basic training.
- (2) Continuing education must be on a topic relevant to the care setting and care needs of residents in adult family homes.

# **Boarding Homes**

- (3) Boarding home administrators (or their designees) and caregivers must complete ten hours of continuing education each calendar year (January 1 through December 31) after the year in which they successfully complete basic or modified basic training.
- (4) Continuing education must be on a topic relevant to the care setting and care needs of residents in boarding homes.

### SECTION VIII---CPR AND FIRST AID TRAINING

# **NEW SECTION**

WAC 388-112-0250 What is CPR training? Cardiopulmonary resuscitation (CPR) training is training that meets the content requirements in WAC 296-800-15010.

# **NEW SECTION**

WAC 388-112-0255 What is first aid training? First aid training is training that meets the content requirements in WAC 296-800-15010.

# **NEW SECTION**

# WAC 388-112-0260 What are the CPR and first aid training requirements? Adult Family Homes

- (1) Adult family home providers and resident managers must possess a valid CPR and first aid card or certificate prior to providing care for residents, and must maintain valid cards or certificates
- (2) Adult family home caregivers must obtain a valid CPR and first aid card or certificate:
- (a) Within thirty days of beginning to provide care for residents, if the provision of care for residents is directly supervised by a fully qualified caregiver who has a valid first aid and CPR card or certificate; or
- (b) Before providing care for residents, if the provision of care for residents is not directly supervised by a fully qualified caregiver who has a valid first aid and CPR card or certificate.
- (3) Adult family home caregivers must maintain valid CPR and first aid cards or certificates.

# **Boarding Homes**

(4) Boarding home administrators, licensed nurses, and caregivers must take CPR and first aid within thirty days of employment, and must maintain valid cards or certificates.

# SECTION IX—RESIDENTIAL CARE ADMINISTRA-TOR TRAINING

### **NEW SECTION**

WAC 388-112-0265 What is residential care administrator training? Residential care administrator training is a minimum of forty-eight hours of training on topics related to the management of adult family homes. DSHS must approve residential care administrator training curricula.

### **NEW SECTION**

WAC 388-112-0270 Who must take residential care administrator training and when? Before operating more than one adult family home, the provider (including an entity representative as defined under chapter 388-76 WAC) must successfully complete residential care administrator training.

# **NEW SECTION**

WAC 388-112-0275 What knowledge and skills must residential care administrator training include? Minimally, residential care administrator training must have at least forty-eight hours of class time, and include all of the following:

- (1) Business planning and marketing;
- (2) Fiscal planning and management;
- (3) Human resource planning;
- (4) Resident health services;
- (5) Nutrition and food service;
- (6) Working with people who are elderly, chronically mentally ill, or developmentally disabled;
  - (7) The licensing process;
  - (8) Social and recreational activities;
  - (9) Resident rights;
  - (10) Legal issues;
  - (11) Physical maintenance and fire safety; and
  - (12) Housekeeping.

# **NEW SECTION**

WAC 388-112-0280 Is competency testing required for residential care administrator training? Competency testing is not required for residential care administrator training.

# **NEW SECTION**

WAC 388-112-0285 What documentation is required for residential care administrator training? (1) Residential care administrator training must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:

(a) The trainee's name;

- (b) The name of the training;
- (c) The location of the training;
- (d) The instructor's name and signature; and
- (e) The date(s) of training.
- (2) The trainee must be given an original certificate. A copy of the certificate must be in the adult family home's files.

# SECTION X—COMPETENCY TESTING

# **NEW SECTION**

WAC 388-112-0290 What is competency testing? Competency testing, including challenge testing, is evaluating a trainee to determine if they can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning outcomes of a particular course.

# **NEW SECTION**

WAC 388-112-0295 What components must competency testing include? Competency testing must include the following components:

- (1) Skills demonstration of ability to perform and/or implement specific caregiving approaches, and/or activities as appropriate for the training;
- (2) Written evaluation to show level of comprehension and knowledge of the learning outcomes for the training; and
- (3) A scoring guide for the tester with clearly stated criteria and minimum proficiency standards.

### **NEW SECTION**

WAC 388-112-0300 What training must include the DSHS-developed competency test? Basic, modified basic, specialty, caregiver specialty, and nurse-delegation core training must include the DSHS-developed competency test.

### **NEW SECTION**

WAC 388-112-0305 How must competency test administration be standardized? To standardize competency test administration, testing must include the following components:

- (1) The person teaching the course must oversee all testing; and
  - (2) The tester must follow DSHS guidelines for:
  - (a) The maximum length of time allowed for testing;
- (b) The amount and nature of instruction given to students before beginning a test;
- (c) The amount of assistance to students allowed during testing;
- (d) The accommodation guidelines for students with disabilities; and
- (e) Accessibility guidelines for students with limited English proficiency.

### **NEW SECTION**

WAC 388-112-0310 What form of identification must students provide before taking a competency or challenge test? Students must provide photo identification before taking a competency test (or challenge test, when applicable) for basic, modified basic, specialty, or nurse delegation training.

### **NEW SECTION**

WAC 388-112-0315 How many times may a competency test be taken? (1) A competency test that is part of a course may be taken twice. If the test is failed a second time, the person must re-take the course before any additional tests are administered.

(2) If a challenge test is available for a course, it may be taken only once. If the test is failed, the person must take the classroom course.

# SECTION XI—CURRICULUM APPROVAL

# **NEW SECTION**

WAC 388-112-0320 What trainings must be taught with a curriculum approved by DSHS? (1) The following trainings must be taught using the DSHS curriculum or other curriculum approved by DSHS: Basic, modified basic, mental health specialty, dementia specialty, and developmental disabilities specialty training, and any training that integrates basic training with a specialty training or a caregiver specialty training.

- (2) The residential care administrator training must use a curriculum approved by DSHS.
- (3) The nurse delegation training must use only the DSHS curriculum.
- (4) A curriculum other than the DSHS curriculum must be approved, at a minimum by attestation, before it is used.

### **NEW SECTION**

WAC 388-112-0325 What are the minimum components that an alternative curriculum must include in order to be approved? In order to be approved, an alternative curriculum must at a minimum include:

- (1) All the DSHS-published learning outcomes and competencies for the course;
- (2) Printed student materials that support the curriculum, a teacher's guide or manual, and learning resource materials such as learning activities, audio-visual materials, handouts, and books:
- (3) The recommended sequence and delivery of the material;
- (4) The teaching methods or approaches that will be used for different sections of the course, including for each lesson:
  - (a) The expected learning outcomes;
- (b) Learning activities that incorporate adult learning principles and address the learning readiness of the student population;
  - (c) Practice of skills to increase competency;

- (d) Feedback to the student on knowledge and skills;
- (e) An emphasis on facilitation by the teacher; and
- (f) An integration of knowledge and skills from previous lessons to build skills.
- (5) A list of the sources or references used to develop the curriculum:
- (6) Methods of teaching and student evaluation for students with limited English proficiency and/or learning disabilities; and
- (7) A plan for updating material. Substantial changes to a previously approved curriculum must be approved before they are used.

### **NEW SECTION**

WAC 388-112-0330 What is the curriculum approval process? (1) An alternative curriculum must be submitted to DSHS for approval with:

- (a) Identification of where each DSHS-published required learning outcome and competency is located in the alternate curriculum;
  - '(b) All materials identified in WAC 388-112-0325; and
- (c) A letter from the boarding home administrator or adult family home provider attesting that the training curriculum addresses all of the training competencies identified by DSHS:
- (2) DSHS may approve a curriculum based upon the attestation in (1)(c) above, until it has been reviewed by DSHS:
- (3) If, upon review by DSHS, the curriculum is not approved, the alternative curriculum may not be used until all required revisions have been submitted and approved by DSHS.
- (4) After review of the alternative curriculum, DSHS will send a written response to the submitter, indicating approval or disapproval of the curriculum and if disapproved, the reasons for denial;
- (5) If the alternative curriculum is not approved, a revised curriculum may be re-submitted to DSHS for another review.

### SECTION XII—HOME-BASED TRAINING

### **NEW SECTION**

WAC 388-112-0335 What are the requirements for a boarding home or adult family home that wishes to conduct basic, modified basic, or specialty staff training? A boarding home or adult family home wishing to conduct basic, modified basic, specialty, or caregiver specialty training may do so if the home:

- (1) Verifies and documents that all instructors meet each of the minimum instructor qualifications for the course they plan to teach;
- (2) Teaches using a complete DSHS-developed or approved alternative curriculum.
- (3) Notifies DSHS in writing of the home's intent to conduct staff training prior to providing training, including:
  - (a) Home name;

- (b) Name of training(s) the home will conduct;
- (c) Name of curriculum(s) the home will use; and
- (d) Whether the home will train only the home's staff, or will also train staff from other homes;
- (4) Ensures that DSHS competency tests are administered as required under this chapter;
- (5) Provides a certificate of completion of training to all staff that successfully complete the entire course, including:
  - (a) The trainee's name;
  - (b) The name of the training;
  - (c) The location of the training;
  - (d) The instructor's name and signature; and
  - (e) The date(s) of training;
- (6) Keeps a copy of student certificates on file for six years, and gives the original certificate to the trainee;
- (7) Keeps attendance records and testing records of students trained and tested on file for six years; and
- (8) Reports training data to DSHS in DSHS-identified time frames.

# **NEW SECTION**

WAC 388-112-0340 Do homes need department approval to provide continuing education for their staff? Homes may provide continuing education for their staff without prior approval of curricula or instructors by the department.

# **NEW SECTION**

WAC 388-112-0345 When can DSHS prohibit a home from conducting its own training? DSHS may prohibit a home from providing its own basic, modified basic, specialty, or caregiver specialty training when:

- (1) DSHS determines that the training fails to meet the standards under this chapter;
- (2) The home's instructor does not meet the applicable qualifications under WAC 388-112-0375 through 388-112-0395; or
- (3) The home's instructor has been a licensee, boarding home administrator, or adult family home resident manager, as applicable, of any home while it was under temporary management or subject to a revocation or summary suspension of the home's license, a stop placement of admissions order, a condition on the license related to resident care, or a civil fine of five thousand dollars or more; or
- (4) The home has been operated under temporary management or has been subject to a revocation or suspension of the home license, a stop placement of admissions order, a condition on the license related to resident care, or a civil fine of five thousand dollars or more.
- (5) Nothing in this section shall be construed to limit DSHS' authority under chapters 388-76 or 388-78A WAC to require the immediate enforcement, pending any appeal, of a condition on the home license prohibiting the home from conducting its own training programs.

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# XIII—INSTRUCTOR APPROVAL

# **NEW SECTION**

WAC 388-112-0350 What trainings must be taught by an instructor who meets the applicable minimum qualifications under this chapter? (1) The following trainings must be taught by an instructor who meets the applicable minimum qualifications for that training: Basic training; modified basic training; mental health, dementia, and developmental disability specialty training; and caregiver specialty training that is not taught by the boarding home administrator (or designee) or adult family home provider or resident manager.

(2) Nurse delegation training and residential care administrator training must be taught by an instructor who is approved by DSHS.

# **NEW SECTION**

WAC 388-112-0355 What are an instructor's or training entity's responsibilities? The instructor or training entity is responsible for:

- (1) Coordinating and teaching classes,
- (2) Assuring that the curriculum used is taught as designed,
  - (3) Selecting qualified guest speakers where applicable,
- (4) Administering or overseeing the administration of DSHS competency and challenge tests,
- (5) Maintaining training records including student tests and attendance records for a minimum of six years,
- (6) Reporting training data to DSHS in DSHS-identified time frames, and
  - (7) Issuing or re-issuing training certificates to students.

### **NEW SECTION**

# WAC 388-112-0360 Must instructors be approved by DSHS? (1) DSHS-contracted instructors

- (a) DSHS must approve any instructor under contract with DSHS to conduct basic, modified basic, specialty, or nurse delegation core training classes using the training curricula developed by DSHS.
- (b) DSHS may select contracted instructors through a purchased services contract procurement pursuant to chapter 236-48 WAC or through other applicable contracting procedures. Contractors must meet the minimum qualifications for instructors under this chapter and any additional qualifications established through a request for qualifications and quotations (RFQQ) or other applicable contracting procedure.
  - (2) Homes conducting their own training

Homes conducting their own training programs using the training curricula developed by DSHS or alternative curricula approved by DSHS must ensure that their instructors meet the minimum qualifications for instructors under this chapter, except for boarding home administrators (or designees), and adult family home providers or resident managers who are teaching their own caregiver staff as permitted under this chapter.

# (3) Other instructors

DSHS must approve all other instructors not described in subsection (1) and (2) of this section.

# **NEW SECTION**

WAC 388-112-0365 Can DSHS deny or terminate a contract with an instructor or training entity? (1) DSHS may determine not to accept a bid or other offer by a person or organization seeking a contract with DSHS to conduct basic, modified basic, specialty, or nurse delegation core training classes using the training curricula developed by DSHS. The protest procedures under chapter 236-48 WAC, as applicable, are a bidder's exclusive administrative remedy. No administrative remedies are available to dispute DSHS' decision not to accept an offer that is not governed by chapter 236-48 WAC, except as may be provided through the contracting process.

(2) DSHS may terminate any training contract in accordance with the terms of the contract. The contractor's administrative remedies shall be limited to those specified in the contract

# **NEW SECTION**

WAC 388-112-0370 What is a guest speaker, and what are the minimum qualifications to be a guest speaker for basic and developmental disabilities specialty training? Guest speakers for basic and developmental disabilities specialty training teach a specific subject in which they have expertise, under the supervision of the instructor. A guest speaker must have as minimum qualifications, an appropriate background and experience that demonstrates that the guest speaker has expertise on the topic he or she will teach. The instructor must select guest speakers that meet the minimum qualifications, and maintain documentation of this background. DSHS does not approve guest speakers.

# **NEW SECTION**

WAC 388-112-0375 What are the minimum general qualifications for an instructor teaching a DSHS curriculum or DSHS-approved alternate curriculum as defined under chapter 388-112 WAC? An instructor teaching a DSHS curriculum or DSHS-approved alternate curriculum must meet the following minimum general qualifications:

- (1) Twenty-one years of age; and
- (2) Has not had a professional health care or social services license or certification revoked in Washington state (however, no license or certification is required).

### **NEW SECTION**

WAC 388-112-0380 What are the minimum qualifications for an instructor for basic or modified basic training? An instructor for basic or modified basic training must meet the following minimum qualifications in addition to the general instructor qualifications in WAC 388-112-0375:

(1) Education and work experience:

- (a) Upon initial approval or hire, must have:
- (i) A high school diploma and one year of caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD per chapter 388-820 WAC, or home care setting; or
- (ii) An associate degree in a health field and six months caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD per chapter 388-820 WAC, or home care setting.
  - (2) Teaching experience:
- (a) Must have one hundred hours of experience teaching adults on topics directly related to the basic training; or
- (b) Meet up to forty hours of the one hundred hours of teaching experience, hour for hour, by teaching while being mentored by an instructor who meets these qualifications, and attend a class in adult education that meets the requirements of WAC 388-112-0400.
- (3) The instructor must be experienced in caregiving practices and capable of demonstrating competency with respect to the course content or units being taught;
- (4) Instructors who will administer tests must have experience or training in assessment and competency testing; and
- (5) If required under WAC 388-112-0075 or 388-112-0105, instructors must successfully complete basic or modified basic training prior to beginning to train others.

#### **NEW SECTION**

WAC 388-112-0385 What are the minimum qualifications for mental health specialty instructors? The minimum qualifications for mental health specialty instructors, in addition to the general qualifications in WAC 388-112-0375 include:

- (1) The instructor must be experienced in mental health caregiving practices and capable of demonstrating competency in the entire course content;
  - (2) Education
- (a) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education, or in college classes, in subjects directly related to mental health, such as, but not limited to, psychology. (One year of education equals twenty-four semester hours, forty-five quarter hours, or one hundred ninety-two hours of seminars, conferences, and continuing education.)
- (b) If required under WAC 388-112-0160, successful completion of the mental health specialty training, prior to beginning to train others.
- (3) Work experience Two years full-time equivalent direct work experience with people who have a mental illness; and
  - (4) Teaching experience
- (a) Two hundred hours experience teaching mental health or closely related subjects; and
- (b) Successful completion of an adult education class or train the trainer as follows:
- (i) For instructors teaching alternate curricula, a class in adult education that meets the requirements of WAC 388-112-0400, or a train the trainer class for the curriculum they are teaching;

- (ii) For instructors teaching DSHS-developed mental health specialty training, successful completion of the DSHS-developed train the trainer.
- (5) Instructors who will administer tests must have experience in assessment and competency testing.

#### **NEW SECTION**

WAC 388-112-0390 What are the minimum qualifications for dementia specialty instructors? The minimum qualifications for dementia specialty instructors, in addition to the general qualifications under WAC 388-112-0375, include:

- (1) The instructor must be experienced in dementia caregiving practices and capable of demonstrating competency in the entire course content;
  - (2) Education
- (a) Bachelor's degree, registered nurse, or mental health specialist, with at least one year of education in seminars, conferences, continuing education or college classes, in dementia or subjects directly related to dementia, such as, but not limited to, psychology. (One year of education equals twenty-four semester hours, forty-five quarter hours, or at least one hundred ninety-two hours of seminars, conferences, or continuing education.)
- (b) If required under WAC 388-112-0160, successful completion of the dementia specialty training, prior to beginning to train others.
- (3) Work experience Two years full-time equivalent direct work experience with people who have dementia; and
  - (4) Teaching experience
- (a) Two hundred hours experience teaching dementia or closely related subjects; and
- (b) Successful completion of an adult education class or train the trainer as follows:
- (i) For instructors teaching alternate curricula, a class in adult education that meets the requirements of WAC 388-112-0400, or a train the trainer class for the curriculum they are teaching;
- (ii) For instructors teaching DSHS-developed dementia specialty training, successful completion of the DSHS-developed train the trainer.
- (5) Instructors who will administer tests must have experience in assessment and competency testing.

#### **NEW SECTION**

WAC 388-112-0395 What are the minimum qualifications for developmental disabilities specialty instructors? The minimum qualifications for developmental disabilities specialty instructors, in addition to the general qualifications under WAC 388-112-0375, include:

- (1) Education and work experience:
- (a) Bachelor's degree with at least two years of full-time work experience in the field of disabilities; or
- (b) High school diploma or equivalent, with four years full time work experience in the field of developmental disabilities, including two years full time direct work experience with people who have a developmental disability; and

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- (2) Successful completion of developmental disabilities specialty training under WAC 388-112-0120; and
  - (3) Teaching experience:
  - (a) Two hundred hours of teaching experience; and
- (b) Successful completion of adult education or train the trainer as follows:
- (i) For instructors teaching alternative curricula, a class in adult education that meets the requirements of WAC 388-112-0400, or a train the trainer class for the curriculum they are teaching;
- (ii) For instructors teaching DSHS-developed developmental disabilities specialty training, successful completion of the DSHS-developed train the trainer.
- (4) Instructors who will administer tests must have experience in assessment and competency testing.

#### **NEW SECTION**

WAC 388-112-0400 What must be included in a class on adult education? A class on adult education must include content, student practice, and evaluation of student skills by the instructor in:

- (1) Adult education theory and practice principles;
- (2) Instructor facilitation techniques;
- (3) Facilitating learning activities for adults;
- (4) Administering competency testing; and
- (5) Working with adults with special training needs (for example, English as a second language or learning and literacy issues).

### SECTION XIV—PHYSICAL RESOURCES AND STANDARD PRACTICES FOR TRAINING

#### **NEW SECTION**

WAC 388-112-0405 What physical resources are required for basic, modified basic, specialty, or nurse delegation core classroom training and testing? (1) Classroom space used for basic, modified basic, specialty, or nurse delegation core classroom training must be accessible to trainees and provide adequate space for learning activities, comfort, lighting, lack of disturbance, and tools for effective teaching and leaning such as white boards and flip charts. Appropriate supplies and equipment must be provided for teaching and practice of caregiving skills in the class being taught.

(2) Testing sites must provide adequate space for testing, comfort, lighting, and lack of disturbance appropriate for the written or skills test being conducted. Appropriate supplies and equipment necessary for the particular test must be provided.

#### **NEW SECTION**

WAC 388-112-0410 What standard training practices must be maintained for basic, modified basic, specialty, or nurse delegation core classroom training and testing? The following training standards must be main-

tained for basic, modified basic, specialty or nurse delegation core classroom training and testing:

- (1) Training, including all breaks, must not exceed eight hours within one day;
- (2) Training provided in short time segments must include an entire unit, skill or concept;
  - (3) Training must include regular breaks; and
- (4) Students attending a classroom training must not be expected to leave the class to attend to job duties, except in an emergency.

AMENDATORY SECTION (Amending WSR 99-15-067, filed 7/19/99, effective 8/19/99)

#### WAC 388-78A-050 Staff. (1) The licensee shall:

- (a) Develop and maintain written job descriptions for the administrator and each staff position;
  - (b) Verify work references;
- (c) Verify required credentialling is current and in good standing for licensed and certified staff;
- (d) Document and retain weekly staffing schedules, as planned and worked, for the last twelve months;
- (e) Provide sufficient, trained staff in each boarding home to:
  - (i) Furnish the services and care needed by residents;
- (ii) Maintain the boarding home free of safety hazards; and
  - (iii) Implement fire and disaster plans;
- (f) Assure one or more resident-care staff eighteen years of age or older, with current cardiopulmonary resuscitation and first-aid cards, is present to assist residents at all times:
- (i) On the boarding home premises when one or more residents are present;
- (ii) Off the boarding home premises during boarding home activities; and
  - (iii) When staff transport a resident;
- (g) Assure staff provide "on-premises" supervision when any resident is working for, or employed by, the boarding home: and
- (h) Provide staff orientation and appropriate training for expected duties, including:
  - (i) Organization of boarding home;
  - (ii) Physical boarding home layout;
  - (iii) Specific duties and responsibilities; and
- (iv) Policies, procedures, and equipment necessary to perform duties.
- (2) The licensee shall ensure that the administrator and staff complete any training required under chapter 388-112 WAC.
- (3) The licensee shall, in addition to following WISHA requirements, protect residents from tuberculosis by requiring each staff person to have, upon employment:
- (a) A tuberculin skin test by the Mantoux method, unless the staff person:
- (i) Documents a previous positive Mantoux skin test, which is ten or more millimeters of induration read at forty-eight to seventy-two hours;
- (ii) Documents meeting the requirements of this subsection within the six months preceding the date of employment; or

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- (iii) Provides a written waiver from the department or authorized local health department stating the Mantoux skin test presents a hazard to the staff person's health;
- (b) A second test one to three weeks after a negative Mantoux skin test for staff thirty-five years of age or older;
- (c) A chest x-ray within seven days of any positive Mantoux skin test.
- $((\frac{3}{)})$  (4) The licensee shall report positive chest x-rays to the appropriate public health authority, and follow precautions ordered by a physician or public health authority.
- (((4))) (5) The licensee shall retain records of tuberculin test results, reports of x-ray findings, exceptions, physician or public health official orders, and waivers in the boarding home.
- (((5) The licensee shall assure that all resident care staff including those transporting residents and supervising resident activities, except licensed staff whose professional training exceeds first responder training, have within thirty days of employment:
- (a) Current cardiopulmonary resuscitation cards from instructors certified by:
  - (i) American Red Cross;
  - (ii) American Heart Association;
  - (iii) United States Bureau of Mines; or
- (iv) Washington state department of labor and industries; and
- (b) Current first-aid cards from instructors certified as in (a) of this subsection, except nurses do not need first-aid eards.))
- (6) The licensee shall restrict a staff person's contact with residents when the staff person has a known communicable disease in the infectious stage which is likely to be spread in the boarding home setting or by casual contact.
- (7) The licensee shall assure any staff person suspected or accused of abuse does not have access to any resident until the licensee investigates and takes action to assure resident safety to the satisfaction of the department.
- (8) The licensee shall not interfere with the investigation of a complaint, coerce a resident, or conceal evidence of alleged improprieties occurring within the boarding home.
- (9) The licensee shall prohibit an employee from being directly employed by a resident or a resident's family during the hours the employee is working for the boarding home.
- (10) The licensee shall maintain the following documentation on the boarding home premises, during employment, and at least two years following termination of employment:
- (a) Staff orientation and training pertinent to duties, including <u>but not limited to</u> cardiopulmonary resuscitation, first-aid, tuberculin skin testing and HIV/AIDS training;
- (b) Criminal history disclosure and background checks as required in WAC 388-78A-045; and
- (c) Verification of contacting work references and professional licensing and certification boards as required by subsection (1) of this section.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

# WSR 02-11-032 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)
[Filed May 7, 2002, 4:19 p.m.]

Supplemental Notice to WSR 01-23-073.

Preproposal statement of inquiry was filed as WSR 00-23-049.

Title of Rule: New WAC 388-112-0001 through 388-112-0195, Residential long-term care services—Training; amending WAC 388-76-570, 388-76-655, and 388-76-660, Adult family home minimum licensing requirements; and repealing WAC 388-76-59100, 388-76-59110, and 388-76-59120, Adult family home minimum licensing requirements, and 388-110-110 Caregiver education and training requirements

Purpose: Implementing SSB 6502 and SHB 2707 on training for adult family homes and boarding homes; and combining training requirements for these settings into one WAC. Significant revisions have been made based on public comment to the proposal published in WSR 01-23-073. This document compares proposed WAC 388-112-0001 through 388-112-0195 with the earlier version WAC 388-112-0001 through 388-112-0175, published in WSR 01-23-073.

**Amendments:** The proposed amendments to WAC 388-78A-060 are withdrawn.

Changes in WAC numbering, including added and deleted sections:

Earlier version of WAC	New version of WAC 388-
388-112- published as	112-
WSR 01-23-073	
0001	same
0005	same
	Added new 0010
0010	0015
0015	0020
0020	0025
0025	0030
0030	0035
0035	0040
0040	0045
0045	0050
0050	0055
0055	0060
0060	0065
0065	0070
0070	0075
0075	0080
0080	0085
0085	0090
0090	0095
0095	0100

0100	0105
0105	0110
0110	0115
0115	0120
0120	0125
_	Added new 0130
0125	0135
	Added new 0140
0130	0145
0135	0150
0140	0155
0145 (1) - (5)	0160
0145(6)	0165
0150	0170
0155	0175
0160	0180
0165	0185
0170	0190
0175	0195

Statutory Authority for Adoption: RCW 18.20.090 Boarding homes, 70.128.040 Adult family homes, 34.05.020.

Statute Being Implemented: Chapter 121, Laws of 2000 and chapter 233, Laws of 2002.

Summary: Implements requirements for staff orientation in adult family homes and boarding homes; implements requirements for licensed boarding home administrators and caregivers to have basic training and specialty training; moves all training requirements for these two settings into one training WAC.

Reasons Supporting Proposal: Implementing statutes referenced above.

Name of Agency Personnel Responsible for Drafting: Dotti Wilke, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2539; Implementation and Enforcement: Marta Acedo, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2549.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule implements RCWs on training for adult family homes and boarding homes, and consolidates the current training rules for those settings into one place. New requirements in the RCW include an orientation for all staff with significant interaction with residents in adult family homes and boarding homes; requirements for licensed boarding homes for administrators or their designees, and caregivers to have basic training and specialty training. The rule has been revised based on public comment on the rule as proposed in WSR 01-23-074.

Proposal Changes the Following Existing Rules: This proposal moves existing rules for residential care settings from two separate chapters into new chapter 388-112 WAC.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The Department of Social and Health Services' Aging and Adult Services Administration (AASA) is proposing to create new chapter 388-112 WAC, Home and community long-term care services—Training. The new chapter contains the training rules for adult family homes, and boarding homes. The proposed rules have been changed in response to public comments.

New chapter 388-112 WAC consolidates training rules by including rules moved from:

- Chapter 388-76 WAC, Adult family homes;
- Chapter 388-78A WAC, Boarding homes; and
- Chapter 388-110 WAC, Contracted residential services.

The chapter also contains new rules implementing changes mandated by the following RCWs:

- Chapter 18.20 RCW, Boarding homes; and
- Chapter 70.128 RCW, Adult family homes.

The purpose of this chapter is to: Define minimum training requirements; define the types of training; clarify curriculum requirements and instructor requirements; and establish department procedures for approval of curricula and instructors

The statutory authority for these chapters includes RCW 18.20.270 Boarding homes and 70.128.230 Adult family homes.

#### The major proposed changes are:

- Incorporating a new requirement for orientation training for new staff in both settings, as required in chapters 18.20 and 70.128 RCW.
- Incorporating new training requirements for licensed boarding homes that do not contract with DSHS, including orientation, basic training, special needs (specialty) training, and continuing education, as required in RCW 18.20.270.
- Creating an approval system for alternative curricula for basic and specialty training, as required by RCW 18.20.270 Boarding homes and 70.128.230 Adult family homes.
- Creating an approval system for trainers as required by the RCWs.

Background of the proposed rule: In 1995, as part of long-term care reform, the legislature allocated funds for training during the following year. Providers and caregivers who were trained included:

- Caregivers in boarding homes that contract with DSHS; and
- All licensed adult family home providers and caregivers.

In 1997, two task forces were created under the auspices of the legislature, to review caregiver training:

■ The Joint Executive-Legislative Long Term Care Task Force's subcommittee on training. This task force reported to the legislature in December 1998 and January 2000.

The training task force, which DSHS, the Department of Health, and the Nursing Care Quality Assurance Commission created, under legislative directives, to review caregiver training. This task force reported to the legislature in December 1998.

Recommendations from both task forces were key in establishing new training requirements created by legislation in the 2000 session. This same legislation created the Community Long Term Care Education and Training Steering Committee to advise the department on the development of rules to implement the new law. (See RCW 74.39A.190.) This steering committee has advised the department for two years on the development of these rules.

Goals for the proposed rules:

- Increase the number of caregivers who will be trained;
- Ensure that all caregivers have an orientation when they begin to work with residents; and
- Allow more boarding homes and adult family homes to teach their own staff and use their own curricula.

Training improves caregiving skills and the quality of care delivered to more than 7,000 adults receiving care through these programs.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT: Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. This statute outlines information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses.

Aging and Adult Services Administration has analyzed the proposed amendments to their rules and has determined that small businesses will be impacted by these changes, with some costs considered "more than minor."

INDUSTRY ANALYSIS: Aging and Adult Services Administration is responsible for boarding home and adult family home licensing. As part of licensing, this state agency keeps current internal databases that identify all licensed facilities and agencies. Since internal industry information can be obtained at a more accurate level than is required by chapter 19.85 RCW, it is unnecessary to conduct an industry analysis using the four-digit standard industrial classification (SIC) codes.

**INVOLVEMENT OF SMALL BUSINESSES:** The data used in this analysis was gathered from several sources:

- The statewide organizations that represent the 2,084 adult family homes, and 513 boarding homes affected by these proposed rules.
- The residential care services and management services divisions of the Aging and Adult Services Administration.

The organizations that contributed current data on wages, benefits, and cost estimates for the businesses they represent, most of which are small businesses, include: Washington State Residential Care Council (AFH), the Adult Family Home Association (AFH), Washington Health Care Association (BH), Washington Association of Housing and Services for the Aging (BH), and Northwest Assisted Living Facilities Association (BH).

This proposed chapter has been developed with the advice of the Training Steering Committee, which has been meeting monthly for twenty-two months to consider and recommend the rules to implement these laws. Represented in this committee are small business members from the statewide provider organizations mentioned above.

In addition, four public forums were held during the summer in (Bellevue, Lacey, Spokane, and Yakima) to discuss the rule development and take public comment on the proposed rules as recommended by the steering committee. Approximately 2,000 interested parties were invited; seventy-seven people attended and commented. Small businesses were represented at these forums, as well.

AASA staff have also regularly attended meetings with adult family home and boarding home providers for the past year to update them on the rule development and take their comments and suggestions. To reach those who could not attend meetings, the proposed rules as recommended by the steering committee have been posted on the AASA Internet web site, with contact person information for anyone wishing to comment or make suggestions on the rule. All the input from these various groups and meetings has helped shape the development of this rule. Public comment on the earlier proposed chapter 388-112 WAC included comments from small businesses, and was considered and incorporated into the proposed rules.

cost of compliance: Costs related to record keeping: Each business must keep on file copies of certificates showing successful completion of required trainings for each of their employees. The only new record-keeping requirement for boarding homes that contract with DSHS and adult family homes is orientation. The new requirements for boarding homes that do not contract with DSHS include orientation, basic training, specialty training for some, and continuing education. Boarding homes that contract with DSHS already meet these requirements under contracting rules, so they will incur no additional costs. Training costs are included in the DSHS rates paid to both boarding homes and adult family homes. Keeping these certificates on file will result in a minor cost to the business.

Costs related to professional services: In estimating costs, AASA has chosen to assume that staff are trained onsite for orientation, and sent off-site for other trainings, with the intent that these are probably the highest cost scenarios. However, if a boarding home or adult family home chooses to contract with a trainer to come in and provide training in their own facility, this will result in costs for the professional services of a trainer. This training strategy, however, eliminates the costs of paying tuition and paying for travel time to and from training, for each trainee, and should reduce the overall costs of training.

Estimated training costs: Expected costs include:

- The trainer's wages and benefits (if an on-staff trainer is used, as for orientation);
- The trainee's wages and benefits; and
- Costs for training materials (if training is on site) or for tuition, if off-site.

See Tables 1 and 2 below for estimated costs for each type of provider.

To fairly consider costs of compliance, AASA has elected to look at costs per trainee. This is because there is no reliable data on the number of employees that will be required to have this training, or the rate of turnover, both of which affect total training costs.

In each setting, the most costly wage scenarios were generally used for cost estimates. Facilities may well be able to reduce these costs by making different choices. The assumptions include:

- For orientation, using a registered nurse as the orientation trainer, and assuming a one-on-one training, rather than in a group;
- For basic training, assuming the facility will pay tuition rather than providing training at the facility;
- For specialty, which is required only if the boarding home has residents with special needs, assuming the administrator (or designee) will attend the specialty training and then train their own caregivers at the facility;
- For continuing education, assuming the facility will pay tuition rather than providing training at the facility.

Circumstances that may be used to mitigate these costs are noted in the section on mitigating expenses, which follows the cost estimates.

#### **Costs of Compliance for Boarding Homes:**

- Orientation is a new requirement for all boarding homes. It is always provided at the facility, by facility staff
- Basic training is a new requirement for boarding homes that do not contract with DSHS. It may be provided by the facility or staff may be sent to another educator for training.
- Specialty training is a new requirement for all boarding homes that serve residents with special needs in dementia, mental health, or developmental disabilities.
- Continuing education is a new requirement for boarding homes that do not contract with DSHS. It includes ten hours of training on caregiving issues, per calendar year. The requirement begins the second year after the basic training is completed. It may be provided by the facility, or staff may be sent to another educator for training.

Tables 1 and 2 below show estimated training costs for each type of provider. Based on public comments, a number of assumptions were changed, including:

- The number of hours of orientation was increased from two to three hours.
- Specialty training costs were added.
- One hour of travel time was added to basic and specialty training.
- Continuing education tuition was increased from \$5 to \$8 per hour.

**Table 1 Boarding Homes** 

Training	Personnel & other costs	Wages	Benefits & Taxes	Total per hour	Hours	Tuition (if applies)	Total Cost
Orientation	Trainer (RN)	\$24.24	\$6.14	\$30.38	3	N/A	\$91.14
	Trainee	\$9.15	\$2.32	\$11.48	3	N/A	\$34.44
	Materials						\$10.00
	Total per trainee						\$135.58
Basic	Trainee	\$9.15	\$2.32	\$11.47	28	\$129.00	\$450.16
	Travel				1		\$11.47
	Total			-			\$461.63
Specialty (Administrator)	Trainee	\$28.13	\$7.16	\$35.29	20	\$200	\$905.80
·	Travel				1		\$35.29
	Total						\$941.09
Specialty (Caregiver)	Trainee	\$9.15	\$2.32	\$11.47	20	N/A	\$229.40
Continuing Edu- cation	Trainee	\$9.15	\$2.32	\$11.47	10	\$80.00	\$194.70

Costs of Compliance for Adult Family Homes: Orientation is a new requirement for all adult family homes. It is always provided at the facility, by facility staff.

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T	able	2	Adult	Family	Homes
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Training	Personnel, other costs	Wages	Benefits & Taxes	Total per hour	Hours	Tuition	Total Cost
Orientation	Trainer (RN)	\$24.24	\$6.14	\$30.38	3		\$91.14
	Trainee	\$9.15	\$2.32	\$11.47	3	\$0.00	\$34.44
	Materials						\$10.00
	Total						\$135.58

Disproportionate Economic Impact Analysis: When there are more than minor costs to small businesses as a result of proposed rule changes, the Regulatory Fairness Act requires an analysis to be done, comparing these costs between small businesses and 10% of the largest businesses.

All for-profit adult family homes are by nature small businesses; an adult family home can serve a maximum of six residents at a time, and so has a small number of employees. No data is available on the actual numbers of employees in boarding homes, but many or most boarding homes are small businesses with fewer than fifty employees. While the pertrainee costs do not differ between small and large businesses, the costs may be a higher proportion of overall costs for a small business. AASA elected to focus on mitigating expenses regardless of results of comparing large and small businesses; therefore AASA considered this type of comparative analysis unnecessary. Therefore, AASA proposes several measures that will mitigate the impact of costs for small businesses.

Mitigating Expenses: Aging and Adult Services Administration has included the following to help mitigate training costs for small businesses:

- Orientation training costs can be significantly reduced if the person doing the orientation is not an RN (high wage rate). The organization has a choice of who to use in conducting the orientation training. For instance, if an LPN does the orientation, the median hourly wage is estimated to be \$15.72, and a social worker's median hourly wage is \$18.74 (compared to an RN at \$24.24). For instance, an RN's median hourly wage is estimated to be \$24.24. If an LPN does the orientation, the hourly wage drops to \$15.72; if a social worker does the orientation, the hourly wage is \$18.74. Both are qualified to do this training.
- Orientation training costs are further reduced if the facility orients more than one person at a time. This can be done any time the facility hires several new caregivers and has them start working at the same time.
- Individuals who have already been oriented at another facility can have a much briefer orientation at a new facility, which is a savings for the second business. The orientation can be shorter because basic information on the required topics will be consistent across facilities. The facility will be able to spend less time on basic information, and focus primarily on information specific to the facility.
- Basic training costs may be mitigated if the training is done on-site. The rules allow for facilities to train their own staff if the instructor(s) meet minimum qualifications. The instructor minimum qualifications have been reduced in the proposed rules. This means the

- facility does not have to pay tuition for each student, nor pay for travel time and expenses to the training.
- Individuals who take basic, specialty training, or continuing education will not be required to take it again if hired at another business where training is required, which is a savings for the second business.
- The revised rules allow the board home administrator or designee, or the adult family home provider or resident manager, to train their caregivers in specialty areas, resulting in tuition and travel savings for every caregiver.
- Specialty instructor qualifications have been lowered based on public comment.
- Boarding homes with a new requirement for basic training for caregivers will have up to one hundred twenty days following the effective date of the rule to meet the requirement.
- Specialty training may be completed up to ninety days after basic training is completed, spreading the costs over a longer period of time.
- Continuing education costs may be mitigated by holding this training at the facility rather than sending staff out to training, saving the costs of each person's tuition and travel. No pre-approval of curriculum or instructor is required.

#### Additional cost savings:

- The orientation reduces the time it takes new employees to begin to provide quality care to residents, which translates into higher satisfaction for the clients, and better word-of-mouth publicity for the agency, which may increase income.
- Well-trained employees generally have higher job satisfaction and this leads to a lower turnover rate, significantly reducing overall costs. Turnover rates have been estimated as 50% or higher per year, for caregivers. Village Green, a Washington state boarding home, determined that monthly turnover for caregivers dropped from 21% to under 5% after implementing a thorough orientation program.

conclusion: Aging and Adult Services Administration has given careful consideration to the impact of proposed rules in chapter 388-112 WAC, Home and community long-term care services—Training, on small businesses. In accordance with the Regulatory Fairness Act, chapter 19.85 RCW, Aging and Adult Services Administration has analyzed impacts on small businesses and proposed ways to mitigate those costs associated with implementing the training requirements in these rules. Training staff adequately to care for adult residents is a benefit to both the resident and the provider.

A copy of the statement may be obtained by writing to Tresa Harambasic, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2548, fax (360) 725-2646.

RCW 34.05.328 applies to this rule adoption. A cost benefit analysis has been prepared concerning these proposed rules, and may be obtained by writing to Tresa Harambasic, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2548, fax (360) 725-2646.

Hearing Location: Office Building 2 Auditorium (DSHS Headquarters) (parking at 12th and Washington), 1115 Washington, Olympia, WA 98504, on June 25, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 21, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs. wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 25, 2002.

Date of Intended Adoption: Not earlier than June 26, 2002.

May 2, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

#### Chapter 388-112 WAC

## RESIDENTIAL LONG-TERM CARE SERVICES TRAINING

#### SECTION I—PURPOSE AND DEFINITIONS

#### **NEW SECTION**

WAC 388-112-0001 What is the purpose of this chapter? The residential long-term care training requirements under this chapter apply to:

- (1) All adult family homes licensed under chapter 70.128 RCW; and
- (2) All boarding homes licensed under chapter 18.20 RCW.

#### **NEW SECTION**

WAC 388-112-0005 What definitions apply to this chapter? "Caregiver" means anyone providing hands-on personal care to another person including but not limited to cuing, reminding, or supervision of residents, on behalf of an adult family home or boarding home, except volunteers who are directly supervised.

"Challenge test" means a competency test taken without first taking the class for which the test is designed. "Competency" means the minimum level of information and skill trainees are required to know and be able to demonstrate.

"Designee" means a person in a boarding home who supervises caregivers and who is designated by a boarding home administrator to take the trainings in this chapter required of the boarding home administrator.

"Direct supervision" means oversight by a person who has demonstrated competency in the basic training (and specialty training if required), or who has been exempted from the basic training requirements, is on the premises, and is quickly and easily available to the caregiver.

"DSHS" refers to the department of social and health services.

"Home" refers to adult family homes and boarding homes.

"Indirect supervision" means oversight by a person who has demonstrated competency in the basic training (and specialty training if required), or who has been exempted from the basic training requirements, and who is quickly and easily available to the caregiver, but not necessarily on-site.

"Learning outcomes" means the specific information, skills and behaviors desired of the learner as a result of a specific unit of instruction, such as what they would learn by the end of a single class or an entire course. Learning outcomes are generally identified with a specific lesson plan or curriculum.

"Resident" means a person residing and receiving longterm care services at a boarding home or adult family home. As applicable, the term resident also means the resident's legal guardian or other surrogate decision maker.

"Routine interaction" means contact with residents that happens regularly.

#### **NEW SECTION**

WAC 388-112-0010 When do the training requirements go into effect? The training requirements of this chapter begin September 1, 2002, or one hundred twenty days from the date of employment, whichever is later, and apply to:

- (1) Adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who are hired or begin to provide hands-on personal care to residents subsequent to September 1, 2002; and
- (2) Existing adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who on September 1, 2002, have not successfully completed the training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130 and this chapter. Existing adult family home providers, resident managers, and caregivers, and boarding home administrators, designees, and caregivers, who have not successfully completed the training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130 are subject to all applicable requirements of this chapter. However, until September 1, 2002, nothing in this chapter affects the current training requirements under RCW 74.39A.010, 74.39A.020, 70.128.120, or 70.128.130.

#### SECTION II—ORIENTATION

#### **NEW SECTION**

WAC 388-112-0015 What is orientation? Orientation provides basic introductory information appropriate to the residential care setting and population served. The department does not approve specific orientation programs, materials, or trainers for homes. No test is required for orientation.

#### **NEW SECTION**

WAC 388-112-0020 What content must be included in an orientation? Orientation may include the use of videotapes, audiotapes, and other media if the person overseeing the orientation is available to answer questions or concerns for the person(s) receiving the orientation. Orientation must include introductory information in the following areas:

- (1) The care setting;
- (2) The characteristics and special needs of the population served:
  - (3) Fire and life safety, including:
- (a) Emergency communication (including phone system if one exists);
- (b) Evacuation planning (including fire alarms and fire extinguishers where they exist);
- (c) Ways to handle resident injuries and falls or other accidents;
- (d) Potential risks to residents or staff (for instance, aggressive resident behaviors and how to handle them); and
  - (e) The location of home policies and procedures.
  - (4) Communication skills and information, including:
- (a) Methods for supporting effective communication among the resident/guardian, staff, and family members;
  - (b) Use of verbal and non-verbal communication;
- (c) Review of written communications and/or documentation required for the job, including the resident's service plan;
- (d) Expectations about communication with other home staff; and
  - (e) Whom to contact about problems and concerns.
- (5) Universal precautions and infection control, including:
  - (a) Proper hand washing techniques;
- (b) Protection from exposure to blood and other body fluids;
- (c) Appropriate disposal of contaminated/hazardous articles;
- (d) Reporting exposure to contaminated articles, blood, or other body fluids; and
  - (e) What staff should do if they are ill.
  - (6) Resident rights, including:
- (a) The resident's right to confidentiality of information about the resident;
- (b) The resident's right to participate in making decisions about the resident's care, and to refuse care;
- (c) Staff's duty to protect and promote the rights of each resident, and assist the resident to exercise his or her rights;

- (d) How and to whom staff should report any concerns they may have about a resident's decision concerning the resident's care:
- (e) Staff's duty to report any suspected abuse, abandonment, neglect, or exploitation of a resident;
- (f) Advocates that are available to help residents (LTC ombudsmen, organizations); and
- (g) Complaint lines, hot lines, and resident grievance procedures.

#### **NEW SECTION**

WAC 388-112-0025 Is competency testing required for orientation? There is no competency testing required for orientation.

#### **NEW SECTION**

WAC 388-112-0030 Is there a challenge test for orientation? There is no challenge test for orientation.

#### **NEW SECTION**

WAC 388-112-0035 What documentation is required for orientation? The home must maintain documentation of completion of orientation, issued by the home, that includes:

- (1) The trainee's name;
- (2) A list of the specific information taught;
- (3) Signature of the person overseeing orientation, indicating completion of the required information;
  - (4) The trainee's date of employment;
  - (5) The location of the orientation; and
  - (6) The date(s) of orientation.

#### **NEW SECTION**

WAC 388-112-0040 Who is required to complete orientation, and when must it be completed? Adult Family Home

(1) Adult family home providers (including entity representatives as defined under chapter 388-76 WAC), resident managers, and all paid or volunteer staff who begin work September 1, 2002 or later must complete orientation before having routine interaction with residents. Orientation must be provided by appropriate adult family home staff.

#### **Boarding Home**

(2) Boarding home administrators (or their designees), caregivers, and all paid or volunteer staff who begin work September 1, 2002 or later must complete orientation before having routine interaction with residents. Orientation must be provided by appropriate boarding home staff.

#### SECTION III—BASIC TRAINING

#### **NEW SECTION**

WAC 388-112-0045 What is basic training? Basic training includes the core knowledge and skills that caregiv-

ers need in order to provide personal care services effectively and safely. DSHS must approve basic training curricula.

#### **NEW SECTION**

WAC 388-112-0050 Is there an alternative to the basic training for some health care workers? Certain health care workers may complete the modified basic training instead of basic training if they meet the requirements in WAC 388-112-0105.

#### **NEW SECTION**

WAC 388-112-0055 What knowledge and skills must be taught in basic training? (1) The basic training knowledge and skills must include all of the learning outcomes and competencies published by the department for the following core knowledge and skills:

- (a) Understanding and using effective interpersonal and problem solving skills with the resident, family members, and other care team members;
- (b) Taking appropriate action to promote and protect resident rights, dignity, and independence;
- (c) Taking appropriate action to promote and protect the health and safety of the resident and the caregiver;
- (d) Correctly performing required personal care tasks while incorporating resident preferences, maintaining the resident's privacy and dignity, and creating opportunities that encourage resident independence;
  - (e) Adhering to basic job standards and expectations.
- (2) The basic training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.

#### **NEW SECTION**

WAC 388-112-0060 Is competency testing required for basic training? Passing the DSHS competency test is required for successful completion of basic training as provided under WAC 388-112-0290 through 388-112-0315.

#### **NEW SECTION**

WAC 388-112-0065 Is there a challenge test for basic training? Individuals may take the DSHS challenge test instead of the required training. If a person does not pass a challenge test on the first attempt, they may not re-take the challenge test and must attend a class.

#### **NEW SECTION**

WAC 388-112-0070 What documentation is required for successful completion of basic training? (1) Basic training must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:

- (a) The name of the trainee;
- (b) The name of the training;
- (c) The location of the training;
- (d) The instructor's name and signature; and

- (e) The date(s) of training.
- (2) The trainee must be given an original certificate. A home must keep a copy of the certificate on file.

#### **NEW SECTION**

### WAC 388-112-0075 Who is required to complete basic training, and when? Adult Family Homes

- (1) Adult family home providers (including entity representatives as defined under chapter 388-76 WAC) must complete basic training and demonstrate competency before operating an adult family home.
- (2) Adult family home resident managers must complete basic training and demonstrate competency before providing services in an adult family home.
- (3) Caregivers in adult family homes must complete basic training within one hundred twenty days of when they begin providing hands-on personal care or within one hundred twenty days of September 1, 2002, whichever is later. Until competency in the basic training has been demonstrated, caregivers may not provide hands-on personal care without indirect supervision.

#### **Boarding Homes**

- (4) Boarding home administrators (or their designees) must complete basic training and demonstrate competency within one hundred twenty days of employment or within one hundred twenty days of September 1, 2002, whichever is later.
- (5) Caregivers must complete basic training within one hundred twenty days of when they begin providing hands-on personal care or within one hundred twenty days of September 1, 2002, whichever is later. Until competency in the basic training has been demonstrated, caregivers may not provide hands-on personal care without direct supervision.

#### SECTION IV—MODIFIED BASIC TRAINING

#### **NEW SECTION**

WAC 388-112-0080 What is modified basic training? Modified basic training is a subset of the basic training curriculum designed for certain health care workers defined in WAC 388-112-0105, whose previous training includes many of the outcomes taught in the full basic training. DSHS must approve modified basic training curricula.

#### **NEW SECTION**

WAC 388-112-0085 What knowledge and skills must be included in modified basic training? (1) Modified basic training must include all of the learning outcomes and competencies published by DSHS for the following core knowledge and skills:

- (a) Resident rights, including mandatory reporting requirements;
  - (b) Medication assistance regulations;
  - (c) Nurse delegation regulations;
- (d) Assessment and observations in home and community settings;
  - (e) Documentation in home and community settings;

- (f) Service planning in home and community care settings;
- (g) Resource information, including information on continuing education; and
  - (h) Self-directed care regulations for home care.
- (2) The modified basic training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.

#### **NEW SECTION**

WAC 388-112-0090 Is competency testing required for modified basic training? Passing the DSHS competency test is required for successful completion of modified basic training as provided in WAC 388-112-0290 through 388-112-0315.

#### **NEW SECTION**

WAC 388-112-0095 Is there a challenge test for modified basic training? Individuals may take the department's challenge test instead of the required training. If a person does not pass a challenge test on the first attempt, they may not re-take the challenge test and must attend the class.

#### **NEW SECTION**

WAC 388-112-0100 What documentation is required for successful completion of modified basic training? (1) Modified basic training must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:

- (a) The name of the trainee;
- (b) The name of the training;
- (c) The location of the training;
- (d) The instructor's name and signature; and
- (e) The date(s) of training.
- (2) The trainee must be given an original certificate. A home must keep a copy of the certificate on file.

#### **NEW SECTION**

WAC 388-112-0105 Who may take modified basic training instead of the full basic training? Modified basic training may be taken, instead of the full basic training, by a person who can document that they have successfully completed training as a registered or licensed practical nurse, certified nursing assistant, physical therapist, occupational therapist, or Medicare-certified home health aide.

#### SECTION V—SPECIALTY TRAINING

#### **NEW SECTION**

WAC 388-112-0110 What is specialty training? Specialty or "special needs" training, including caregiver specialty training, provides instruction in caregiving skills that meet the special needs of people living with mental illness, dementia, or developmental disabilities. Specialty trainings are different for each population served and are not inter-

- changeable. Specialty training may be integrated with basic training if the complete content of each training is included. DSHS must approve specialty training curricula, except for caregiver dementia and caregiver mental health training.
- (1) Boarding home administrator (or designee), adult family home provider and resident manager specialty training:
- (a) Developmental disabilities specialty training, under WAC 388-112-0120, is the required training on that specialty for adult family home providers and resident managers, and for boarding home administrators (or designees.)
- (b) Dementia specialty training, under WAC 388-112-0135, and mental health specialty training, under WAC 388-112-0140, are the required trainings on those specialties for adult family home providers and resident managers, and for boarding home administrators (or designees).
  - (2) Boarding home caregiver specialty training:

After successfully completing the specialty training, the boarding home administrator (or designee) may train his or her own caregiver staff as follows:

- (a) Developmental disabilities specialty training, under WAC 388-112-0120, is the required training on that specialty for boarding home caregivers.
- (b) Caregiver dementia training, under WAC 388-112-0135, and caregiver mental health training, under WAC 388-112-0140, are the required trainings on those specialties for boarding home caregivers.
  - (3) Adult family home caregiver specialty training:

The provider or a person knowledgeable about the specialty area trains adult family home caregivers in the specialty needs of the individual residents in the adult family home, and there is no required curriculum.

#### **NEW SECTION**

WAC 388-112-0115 What specialty training, including caregiver specialty training, is required if a resident has more than one special need? If an individual resident has needs in more than one of the special needs areas, the home must determine which of the specialty trainings will most appropriately address the overall needs of the person and ensure that the specialty training that addresses the overall needs is completed as required. If additional training beyond the specialty training is needed to meet all of the resident's needs, the home must ensure that additional training is completed.

#### **NEW SECTION**

[ 29 ]

WAC 388-112-0120 What knowledge and skills must developmental disabilities specialty training include? (1) Developmental disabilities specialty training must include all of the learning outcomes and competencies published by DSHS for the following core knowledge and skills:

- (a) Overview of developmental disabilities;
- (b) Values of service delivery;
- (c) Effective communication;
- (d) Introduction to interactive planning;
- (e) Understanding behavior;

- (f) Crisis prevention and intervention; and
- (g) Overview of legal issues and individual rights.
- (2) For adult family homes, the division of developmental disabilities (DDD) will provide in-home technical assistance to the adult family home upon admission of the first resident eligible for services from DDD and, thereafter, as determined necessary by DSHS.
- (3) The developmental disabilities specialty training learning outcomes and competencies may be obtained from the DSHS division of developmental disabilities.

#### **NEW SECTION**

WAC 388-112-0125 What knowledge and skills must dementia specialty training include? (1) Dementia specialty training must include all the learning outcomes and competencies published by DSHS for the following core knowledge and skills:

- (a) Introduction to the dementias;
- (b) Differentiating dementia, depression, and delirium;
- (c) Caregiving goals, values, attitudes and behaviors;
- (d) Caregiving principles and dementia problem solving;
- (e) Effects of cognitive losses on communication;
- (f) Communicating with people who have dementia;
- (g) Sexuality and dementia;
- (h) Rethinking "problem" behaviors;
- (i) Hallucinations and delusions;
- (j) Helping with activities of daily living (ADLs);
- (k) Drugs and dementia;
- (1) Working with families;
- (m) Getting help from others; and
- (n) Self-care for caregivers.
- (2) The dementia specialty training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.

#### **NEW SECTION**

WAC 388-112-0130 What knowledge and skills must caregiver dementia training include? (1) Caregiver dementia training must include all the learning outcomes and competencies published by DSHS for the following core knowledge and skills:

- (a) Introduction to the dementias;
- (b) Dementia, depression, and delirium;
- (c) Resident-based caregiving;
- (d) Dementia caregiving principles;
- (e) Communicating with people who have dementia;
- (f) Sexuality and dementia;
- (g) Re-thinking "problem" behaviors;
- (h) Hallucinations and delusions;
- (i) Helping with activities of daily living (ADLs); and
- (j) Working with family and friends.
- (2) The learning outcomes and competencies for caregiver dementia training may be obtained from the DSHS aging and adult services administration.

#### **NEW SECTION**

WAC 388-112-0135 What knowledge and skills must mental health specialty training include? (1) Mental health specialty training must include all the learning outcomes and competencies published by DSHS for the following core knowledge and skills:

- (a) Introduction to mental illness;
- (b) Culturally compassionate care;
- (c) Respectful communications;
- (d) Understanding mental illness major mental disorders:
- (e) Understanding mental illness baseline, decompensation, and relapse planning; responses to hallucinations and delusions:
- (f) Understanding and interventions for behaviors perceived as problems;
  - (g) Aggression;
  - (h) Suicide;
  - (i) Medications;
  - (j) Getting help from others; and
  - (k) Self-care for caregivers.
- (2) The mental health specialty training learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.

#### **NEW SECTION**

WAC 388-112-0140 What knowledge and skills must caregiver mental health training include? (1) Caregiver mental health training must include all the learning outcomes and competencies published by DSHS for the following core knowledge and skills:

- (a) Understanding major mental disorders;
- (b) Individual background, experiences and beliefs:
- (c) Responding to decompensation, relapse, hallucinations and delusions;
  - (d) Interventions for behaviors perceived as problems;
  - (e) Aggression; and
  - (f) Suicide.
- (2) The learning outcomes and competencies for caregiver mental health training may be obtained from the DSHS aging and adult services administration.

#### **NEW SECTION**

WAC 388-112-0145 Is competency testing required for specialty training, including caregiver specialty training? Passing the DSHS competency test is required for successful completion of specialty training for adult family home providers and resident managers, and for boarding home administrators (or designees) and caregivers, as provided under WAC 388-112-0290 through 388-112-0315. Competency testing is not required for adult family home caregivers.

#### **NEW SECTION**

WAC 388-112-0150 Is there a challenge test for specialty training, including caregiver specialty training?

There is a challenge test for all the specialty trainings, including caregiver specialty trainings, except the adult family home caregiver training. Individuals may take the DSHS challenge test instead of required specialty training. A person who does not pass a challenge test on the first attempt must attend the class.

#### **NEW SECTION**

WAC 388-112-0155 What documentation is required for successful completion of specialty training, including caregiver specialty training? Specialty training, including caregiver specialty training, as applicable, must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:

- (1) The trainee's name;
- (2) The name of the training;
- (3) The location of the training;
- (4) The instructor's name and signature; and
- (5) The date(s) of training.
- (6) The trainee must be given an original certificate. The home must keep a copy of the certificate on file.

#### **NEW SECTION**

### WAC 388-112-0160 Who is required to complete specialty training, and when? Adult Family Homes

- (1) Adult family home providers (including entity representatives as defined under chapter 388-76 WAC) and resident managers must complete specialty training and demonstrate competency before admitting and serving residents who have special needs related to mental illness, dementia, or a developmental disability.
- (2) If a resident develops special needs while living in a home without a specialty designation, the provider and resident manager have one hundred twenty days to complete specialty training and demonstrate competency.

#### **Boarding Homes**

- (3) If a boarding home serves one or more residents with special needs, the boarding home administrator (or designee) must complete specialty training and demonstrate competency within one hundred twenty days of employment or within one hundred twenty days of September 1, 2002, whichever is later.
- (4) If a resident develops special needs while living in a boarding home, the boarding home administrator (or designee) has one hundred twenty days to complete specialty training and demonstrate competency.

#### **NEW SECTION**

### WAC 388-112-0165 Who is required to complete caregiver specialty training, and when? Adult family homes

If an adult family home serves one or more residents with special needs, all caregivers must receive training regarding the specialty needs of individual residents in the home. The provider or resident manager knowledgeable about the specialty area may provide this training.

#### **Boarding homes**

If a boarding home serves one or more residents with special needs, caregivers must complete caregiver specialty training and demonstrate competency.

- (1) If the caregiver specialty training is integrated with basic training, caregivers must complete the caregiver specialty training within one hundred twenty days of when they begin providing hands-on personal care to a resident having special needs or within one hundred twenty days of September 1, 2002, whichever is later.
- (2) If the caregiver specialty training is not integrated with basic training, caregivers must complete the relevant caregiver specialty training within ninety days of completing basic training.
- (3) Until competency in the caregiver specialty has been demonstrated, caregivers may not provide hands-on personal care to a resident with special needs without direct supervision

#### SECTION VI—NURSE DELEGATION CORE TRAIN-ING

#### **NEW\_SECTION**

WAC 388-112-0170 What is nurse delegation core training? Nurse delegation core training is required before a nursing assistant may be delegated a nursing task. DSHS approves instructors for nurse delegation core training.

#### **NEW SECTION**

WAC 388-112-0175 What knowledge and skills must nurse delegation core training include? Only the curriculum developed by DSHS may be used for nurse delegation core training.

#### **NEW SECTION**

WAC 388-112-0180 Is competency testing required for nurse delegation core training? Passing the DSHS competency test is required for successful completion of nurse delegation core training, as provided under WAC 388-112-0265 through 388-112-0295.

#### **NEW SECTION**

WAC 388-112-0185 Is there a challenge test for nurse delegation core training? There is no challenge test for nurse delegation core training.

#### **NEW SECTION**

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WAC 388-112-0190 What documentation is required for successful completion of nurse delegation core training? (1) Nurse delegation core training must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:

- (a) The name of the trainee;
- (b) The name of the training;

Proposed

- (c) The location of the training;
- (d) The instructor's name and signature; and
- (e) The date(s) of training.
- (2) The trainee must be given an original certificate. Homes must keep a copy of the certificate on file.

#### **NEW SECTION**

## WAC 388-112-0195 Who is required to complete nurse delegation core training, and when? Adult Family Homes

(1) Before performing any delegated nursing task, adult family home staff must successfully complete DSHS-designated nurse delegation core training, and be a nursing assistant registered or certified under chapter 18.88A RCW.

#### **Boarding Homes**

(2) Before performing any delegated nursing task, boarding home staff must successfully complete DSHS-designated nurse delegation core training, and be a nursing assistant registered or certified under chapter 18.88A RCW.

AMENDATORY SECTION (Amending WSR 98-11-095, filed 5/20/98, effective 7/1/98)

WAC 388-76-570 Additional license requirements— Multiple facility providers. (1) The department shall not issue a license to a provider to operate more than one adult family home unless:

- (a) The applicant has operated an adult family home for at least one year in this state without any significant violation of the rules of this chapter; or
- (b) The applicant has submitted evidence demonstrating that it has the capability to operate multiple adult family homes.
- (2) An applicant that is applying to be licensed for more than one adult family home shall submit to the department for each adult family home:
- (a) A twenty-four hour per day, seven days per week, staffing plan; and
  - (b) A plan for covering administrative responsibilities.
- (3) Multiple facility providers shall have on-site at each adult family home a plan that addresses visitor parking, deliveries, and staff parking.
- (4) The department may consider the applicant's credit history in determining whether to license the applicant for more than two adult family homes, when the department determines the credit history relates to an applicant's ability to provide care and services to vulnerable adults.
- (5) Prior to operating two or more adult family homes, the individual provider or entity representative shall successfully complete forty-eight hours of residential care administrator's training, ((including training in at least the following areas:
  - (a) Business planning and marketing;
  - (b) Fiscal-planning and management;
  - (c) Human resource planning;
  - (d) Resident health services;
  - (e) Nutrition and food service;

- (f) Working with people-who are elderly, chronically mentally ill, or developmentally disabled;
  - (g) The licensing process;
  - (h) Social and recreational activities;
  - (i) Resident rights;
  - (j) Legal issues;
  - (k) Physical maintenance and fire safety; and
- (1) Housekeeping)) as specified in WAC 388-112-0265 through 388-112-0285.

AMENDATORY SECTION (Amending WSR 98-11-095, filed 5/20/98, effective 7/1/98)

WAC 388-76-655 General management and administration. (1) The provider shall not admit or retain any resident whose needs the provider cannot meet.

- (2) The provider shall ensure all of the following:
- (a) That staff are competent((5)) and receive necessary training, including but not limited to any training required under chapter 388-112 WAC to perform assigned tasks;
- (b) The adult family home is in compliance with the requirements of this chapter and other applicable state laws;
- (c) The home employs sufficient staff to meet the needs of the residents; and
- (d) That he/she is available to respond to resident needs and caregiver inquiries within a reasonable time frame. In the event a provider is unavailable (including but not limited to being on vacation), a person must be designated to respond on behalf of the provider.
- (3) The provider shall maintain liability insurance of at least one hundred thousand dollars per occurrence to cover:
- (a) Damage or loss of the resident's property if due to negligence of the insured; and
  - (b) Injury or harm to the resident resulting from:
- (i) The provision of services or failure to provide needed services; or
- (ii) Incidents occurring in the adult family home or on the home's premises.
- (4) The provider shall ensure that all caregivers are at least eighteen years of age or older.
- (5) The provider shall ensure that the provider, entity representative, resident manager and all caregivers:
- (a) Are able to communicate or make provisions for communicating with the resident in his or her primary language;
- (b) Have a clear understanding of job responsibilities and knowledge of residents' negotiated care plans in order to be able to provide care specific to each resident's needs; and
- (c) Not engage in the illegal use of drugs or the excessive use of alcohol when providing care to residents; and
- (d) Possess a valid first aid and CPR card prior to providing care for residents unless such care is directly supervised by a fully qualified caregiver who has a valid first aid and CPR card.
  - (6) The provider shall ensure that:

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- (a) There is at least one caregiver present in the home whenever one or more residents are on the premises;
- (b) The caregiver referred to in (a) of this subsection is capable of understanding and speaking English well enough

to be able to respond appropriately to emergency situations; and

- (c) At least one caregiver is accessible by phone or beeper for emergencies when there are no residents on the ((homes')) home's premises.
- (7) An adult family home shall be exempt from subsection (6)(a) of this section if:
- (a) The home provides care to residents whose primary disabilities are developmental disabilities as defined by WAC 388-76-590; and
- (b) It is determined and documented in a resident's current negotiated care plan that the resident is capable and willing to be left alone unsupervised in the adult family home during normal awake hours. The maximum period of time a resident can be left alone must be documented in the negotiated care plan.

AMENDATORY SECTION (Amending WSR 98-11-095, filed 5/20/98, effective 7/1/98)

WAC 388-76-660 Training. (((1) Before operating and providing services in an)) Adult family home((,)) individual providers, entity ((representative and)) representatives, resident managers ((shall successfully complete the department's:

- (a) Fundamentals of caregiving training; or
- (b) Modified fundamentals of caregiving training if they meet the requirements listed in subsection (3) of this section.
  - (2) Providers shall ensure that:
- (a) All caregivers hired in the adult family home successfully complete the department designated fundamentals of caregiving training within one hundred twenty days of employment, unless he or she meets the requirements in subsections (3) or (4) below; and
- (b) All caregivers complete a minimum of ten hours of continuing education credits per calendar year, on topics relevant to caregiving:
- (i) Topics include, but are not limited to residents' rights, personal care, dementia, mental illness, developmental disabilities, depression, medication assistance, communication skills, alternatives to restraints, and activities for residents;
- (ii) Caregivers must receive a certificate of completion to meet the requirement for continuing education credit and each hour of completed instruction will count as one hour of continuing education credit; and
- (iii) The continuing education requirement begins the calendar year after the year in which the caregiver completes the fundamentals or modified fundamentals of caregiving training.
- (3) A caregiver who has successfully completed training as a registered or licensed practical nurse, a physical or occupational therapist, a nursing assistant certified, a home health aid from a Medicare certified home health agency, who has successfully completed department approved adult family home training, or department approved personal care training from an area agency on aging or their subcontractor, or who is a resident manager or provider prior to July 20, 1996, is exempt from the fundamentals of caregiving training in subsection (2) of this section if the caregiver successfully completes the department designated modified fundamentals of

caregiving training in accordance with the dates specified in subsection (2) of this section.

- (4) Caregivers are exempt from attending the fundamentals of caregiving or modified fundamentals of caregiving trainings if they successfully pass the department's challenge test for the class they are required to take. The caregiver has only one opportunity to successfully pass the challenge test then he/she must attend the fundamentals of caregiving or modified fundamentals of caregiving trainings as required.
- (5) A provider and any of their staff who have successfully completed the division of developmental disabilities (DDD) staff training as required by chapter 275-26 WAC is exempt from the fundamentals of caregiving training in subsections (1) and (2) of this section, as long as the provider continues to work for a DDD contracted agency. This exemption no longer applies if the provider or their staff leaves the DDD contracted agency.
- (6) Volunteers are exempt from the training requirements listed above unless they provide unsupervised direct personal care to residents.
- (7) The provider shall document that caregivers have met the education and training requirements)), and caregivers must meet the training requirements under chapter 388-112 WAC.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-76-59100	Does completion of this training substitute for any other required trainings?
WAC 388-76-59110	For the dementia and mental health specialties can providers take a test instead of attending the training?
WAC 388-76-59120	Are there any different train- ing requirements for adult family homes providing ser- vices to persons with devel- opmental disabilities?
WAC 388-110-110	Caregiver education and training requirements.

## WSR 02-11-038 PROPOSED RULES WASHINGTON STATE PATROL

[Filed May 8, 2002, 10:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-018.

Title of Rule: Chapter 212-12 WAC, State patrol, fire protection.

[ 33 ] Proposed

Purpose: Prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from the hazards of fire, explosion, and panic.

Statutory Authority for Adoption: Chapter 19.27 RCW.

Summary: Amendment is being made to change language to reflect current state building fire codes as adopted by the state Building [Code] Council.

Reasons Supporting Proposal: The verbiage needs to be current and to reflect the terminology used by the Building Code Council.

Name of Agency Personnel Responsible for Drafting and Implementation: Mr. Roger Woodside, P.O. Box 42601, Olympia, WA 98504-2601, (360) 705-5763; and Enforcement: Ms. Mary Corso, P.O. Box 42600, Olympia, WA 98504-2600, (360) 753-0404.

Name of Proponent: Building Code Council, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Approve of the amendment.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from the hazards of fire, explosion, and panic.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact made from this amendment.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Commercial Vehicle Division Conference Room (G-21), General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, on June 27, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Mr. Mike Palios by June 25, 2002, TDD (253) 536-4270, or (360) 753-5966.

Submit Written Comments to: Mr. Roger Woodside, Fire Protection Bureau, P.O. Box 42601, rwoodsi@wsp.wa. gov, fax (360) 753-0395, by June 24, 2002.

Date of Intended Adoption: July 29, 2002.

May 7, 2002

Ronal W. Serpas

Chief

<u>AMENDATORY SECTION</u> (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

WAC 212-12-001 Purpose. The purpose of this chapter is to prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from the hazards of fire, explosion, and panic. ((This regulation is applicable to the director of fire protection services.)) The director of fire protection ((services)) is authorized to administer and enforce this chapter.

AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

- WAC 212-12-005 Definitions. Unless otherwise clarified in this section, definitions in the State Building Code shall apply to this chapter. The following definitions shall also apply to this chapter:
- (1) (("Adult family homes" are those facilities licensed by the department of social and health services under chapter 70.128 RCW and chapter 388-76 WAC. Adult family homes shall be classified as:
- (a) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.
- (b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.
- (2))) "Adult residential rehabilitation ((faeility)) center" means a residence, place, or ((faeility)) center, including private adult treatment homes, licensed by the department of health under chapter 71.12 RCW and chapter 246-325 WAC. Adult residential rehabilitation facilities shall be classified as((÷
- (a) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.
- (b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (e) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.
  - (3))) a Group LC Occupancy.
- (2) "Alcoholism hospital" means facilities or institutions licensed by the department of health under chapter 71.12 RCW and chapter 246-322 WAC. Alcoholism hospitals shall be classified as a Group I, Division 1.1 Occupancy.
- (((4))) (3) "Alcoholism intensive inpatient treatment services" means those services licensed by the department of health under chapter 71.12 RCW and chapter 246-326 WAC. Alcoholism intensive inpatient treatment services shall be classified as((÷
- (a) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.
- (b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (e) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.

- (d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.
  - (5))) a Group LC Occupancy.
- (4) "Alcoholism treatment facility" means a facility operated primarily for the treatment of alcoholism licensed by the department of health under chapter 71.12 RCW and chapter 246-362 WAC. Alcoholism treatment facilities shall be classified as follows:
  - (a) "Alcoholism detoxification services":
  - (i) Acute: Group I, Division 1.1.
- (ii) Sub-acute: ((Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff; Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff; Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff; Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.)) A Group LC Occupancy.
- (b) "Alcoholism long term treatment services": Alcoholism long term treatment services shall be classified as((÷
- (i) Group R, Division 3 Occupancy when accommodating five for less clients or residents, excluding staff.
- (ii) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (iii) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (iv) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.)) a Group LC Occupancy.
- (c) "Alcohol recovery house services": Alcohol recovery house services shall be classified as((±
- (i) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.
- (ii) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (iii) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (iv) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.
  - (6))) a Group LC Occupancy.
- (5) "Ambulatory" means physically and mentally capable of walking or traversing a normal path to safety, including the ascent and descent of stairs, without the physical assistance of another person.
- (((<del>7)</del>)) (6) "Approved" refers to approval by the director of fire protection ((services)) as a result of investigation and tests conducted by the director of fire protection ((services))

- or by reason of accepted principles or tests by national authorities, or technical or scientific organizations.
- (((8))) (7) "Authority having jurisdiction" is the director of fire protection ((services)) or authorized deputy or designee
- (8) "Assistant state fire marshal" means the assistant state fire marshal who manages a specific division within the fire protection bureau or as designated by the director of fire protection.
- (9) "Bed and breakfast:" See transient accommodation definition in this section.
- (10) "Boarding home" means any home or other institution licensed by the department of health under chapter 18.20 RCW and chapter ((246-316)) 388-78A WAC. Boarding homes shall be classified as((÷
- (a) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.
- (b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (e) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (d) Group R, Division 1 Occupancy with Group I, Division 2.1 exit requirements when accommodating more than sixteen clients or residents, excluding staff.)) a Group LC Occupancy.
- (11) "Building official" means the designated authority appointed by the governing body of each city or county who is in charge of the administration and enforcement of the Uniform Building Code.
- (12) (("Chief deputy state fire marshal" means the chief deputy state fire marshal who manages a specific unit within the fire protection services division or as designated by the director of fire protection services.
- (13))) "Child birth center" means a facility or institution licensed by the department of health under chapter 18.46 RCW and chapter 246-329 WAC. Child birth centers shall be classified as((÷
- (a) Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.
- (b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.
  - (14))) a Group B Occupancy.
- (13) "Child day care center" means an agency which provides child day care outside the abode of the licensee or for thirteen or more children in the abode of the licensee. Such facilities are licensed by the department of social and health services under chapter 74.15 RCW and chapter 388-150 WAC. Child day care centers shall be classified as a Group E, Division 3 Occupancy.

- (((15))) (14) "Director of fire protection ((services))" means the director of the fire protection ((services division)) bureau in the ((department of community development)) Washington state patrol or authorized deputy or designee.
- (((16))) (15) "Evaluation process" means the initial steps in the informal appeals process established by the director of fire protection ((services)) under the authority of RCW 34.05.060.
- (((17))) (16) "Family child day care home" means a child day care facility located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home. Such facilities are licensed by the department of social and health services under chapter 74.15 RCW and chapter 388-155 WAC. Family child day care homes shall be classified as a Group R, Division 3 Occupancy.
- (((18))) (17) "Fire official" means the person or other designated authority appointed by the city or county for the administration and enforcement of the Uniform Fire Code.
- (((19))) (18) "Group care facility" means a facility licensed by the department of social and health services under chapter 74.15 RCW-and chapter 388-73 WAC. Group care facilities shall be classified as((÷
- (a) Group R, Division 3 Occupancy when accommodating five or fewer clients or residents, excluding staff.
- (b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen clients or residents, excluding staff.
  - (20))) a Group LC Occupancy.
- (19) "Group care facilities for severely and multiply handicapped children" means facilities which are maintained and operated for the care of a group of children as licensed by the department of social and health services under chapter 74.15 RCW and chapter 388-73 WAC. Group care facilities for severely and multiply handicapped children shall be classified as:
- (a) ((Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.
- (b) Group R, Division 4 Occupancy when accommodating more than five and not-more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (c) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (d) Group R, Division 1 Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen ambulatory clients or residents, excluding staff.
  - (e))) A Group LC Occupancy.
- (b) Group I, Division 1.1 Occupancy when accommodating more than sixteen nonambulatory clients or residents, excluding staff.

- ((<del>(f)</del>)) (c) Group I, Division 3 Occupancy when accommodating any number of restrained persons.
- (((21))) (20) "Hospice care center" means any building, facility, or place licensed by the department of health under chapter 70.41 RCW and chapter 246-321 WAC. Hospice care centers shall be classified as a Group I, Division 1.1 Occupancy.
- (((22))) (21) "Hospital" means an institution, place, building, or agency licensed by the department of health under chapter 70.41 RCW and chapter 246-318 WAC. Hospitals shall be classified as a Group I, Division 1.1 Occupancy.
- (((23))) (22) "Nonambulatory" means physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another person.
- (((24))) (23) "Nursing home" means any home, place, or institution licensed by the department of social and health services under chapter 18.51 RCW and chapter 248-14 WAC. Nursing homes shall be classified as a Group I, Division 1.1 Occupancy.
- (((25))) (24) "Private adult treatment home" means the same as an adult residential rehabilitation ((facility)) center as defined in (((2))) (1) of this section.
- (((26))) (25) "Psychiatric hospital" means an institution licensed by the department of health under chapter 71.12 RCW and chapter 246-322 WAC. Psychiatric hospitals shall be classified as a Group I, Division 3 Occupancy.
- (((27))) (26) "Residential treatment facility for psychiatrically impaired children and youth" means a residence, place, or facility licensed by the department of health under chapter 71.12 RCW and chapter 246-323 WAC. Residential treatment facilities for psychiatrically impaired children and youth shall be classified as:
- (a) ((Group R, Division 3 Occupancy when accommodating five or less clients or residents, excluding staff.
- (b) Group R, Division 4 Occupancy when accommodating more than five and not more than sixteen ambulatory, nonrestrained clients or residents who may have a mental or physical impairment, excluding staff.
- (e) Group R, Division 5 Occupancy when accommodating more than five and not more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (d) Group R, Division I Occupancy with Group I, Division 1.2 exit requirements when accommodating more than sixteen ambulatory, nonrestrained clients or residents, excluding staff.
  - (e))) A Group LC Occupancy.
- (b) Group I, Division 1.1 Occupancy when accommodating more than sixteen nonambulatory, nonrestrained clients or residents, excluding staff.
- (((f))) (c) Group I, Division 3 Occupancy when accommodating any number of restrained persons.
- (((28))) (27) "State fire marshal" means the director of fire protection ((services)) or authorized deputy or designee.
- (((29))) (28) "Transient accommodation" means any facility licensed by the department of health under chapter 70.62 RCW and chapter 246-360 WAC and shall include bed and breakfast inns. Transient accommodations shall be classified as a Group R, Division 1 Occupancy when accommo-

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dating more than ten persons and a Group R, Division 3 Occupancy when accommodating ten or less persons.

<u>AMENDATORY SECTION</u> (Amending Order FM-77-2, filed 11/17/77)

#### WAC 212-12-010 Adoption of fire safety standards.

- (1) Application. This regulation shall apply to:
  - (a) Transient accommodations (RCW 70.62.290).
  - (b) Nursing homes (RCW 18.51.140).
  - (c) Hospitals (RCW 70.41.080).
  - (d) Boarding homes (RCW 18.20.130).
- (e) Private establishments; i.e. private, mental, and alcoholic hospitals (RCW 71.12.485).
- (f) ((Maternity homes)) Child birth center (RCW 18.46.110).
- (g) Agencies licensed by the department of social and health services pursuant to chapter 74.15 RCW, RCW 74.32.040 through 74.32.055, and 74.13.031, except foster family homes and child placing agencies.
- (h) Schools under the jurisdiction of the superintendent of public instruction and the state board of education (RCW 48.48.045).
  - (((i) Private schools (RCW 28A.02.201).))
- (2) **Purpose.** The purpose of these standards is to specify measures which will provide a reasonable degree of public safety from fire without involving hardship or interference with the normal use and occupancy of a building.
- (3) Fire safety standards. The fire safety standards of the ((state fire marshal)) director of fire protection shall be as follows:
- (a) The fire safety standards or applicable portions thereof as found or referenced in the State Building Code Act, chapter 19.27 RCW.
- (b) The ((1976)) 1985 edition of the National Fire Protection Association Life Safety Code 101.
- (c) Those standards of the National Fire Protection Association applicable to and expressly or impliedly referenced in the Life Safety Code.
- (4) **Enforcement.** Enforcement of these fire safety standards shall be as follows:
- (a) New construction or major remodeling shall be in conformance with the Uniform Building Code and the Uniform Fire Code, as administered by ((the)) state and local officials having jurisdiction.
- (b) Operation and maintenance shall be in conformance with the Uniform Fire Code, as administered by ((the)) state and local officials having jurisdiction.
- (c) ((Existing buildings shall be governed by local codes and the Life Safety Code.
- (d))) Existing licensed occupancies previously approved by the state fire marshal as in conformance with the standards then in effect shall have their existing use or occupancy continued, provided such continued use is not dangerous to life and is acceptable to the local fire and building officials having jurisdiction.
- (((e) An existing occupancy, licensed as in conformance with a previous edition of the Life Safety Code, may opt to conform to the most recent edition of the Life Safety Code,

but only if the most recent code is used in its entirety as the applicable code for the occupancy.

(f)) (d) Occupancies, operations or processes not specifically covered elsewhere, in which the ((state fire marshal)) director of fire protection has responsibilities for the removal of fire hazards, shall be conducted and/or maintained in accordance with the latest edition of the National Fire Protection Association Fire Codes which shall be deemed prima facie evidence of good practice.

AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

WAC 212-12-011 Applicability. This chapter shall apply to:

- (1) Child birth centers.
- (2) Transient accommodations.
- (3) Nursing homes.
- (4) Hospice care centers.
- (5) Hospitals.
- (6) Boarding homes.
- (7) ((One day out-patient surgery centers.
- (8))) Child day care centers.
- (((9))) (8) Family child day care homes.
- (((10))) (9) Private establishments: I.e., adult residential rehabilitation facilities, alcoholism hospitals, alcoholism treatment facilities, psychiatric hospitals, and residential treatment facilities for psychiatrically impaired children and youth.
- ((<del>(11)</del>)) (10) Facilities licensed by the department of social and health services, except foster family homes and child placing agencies.
- ((<del>(12)</del>)) (11) Schools under the jurisdiction of the superintendent of public instruction and the state board of education (RCW 48.48.045).
  - ((<del>(13) Private schools (RCW 28A.195.010).</del>
  - (14))) (12) Public buildings (RCW 48.48.030).

AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

- WAC 212-12-015 Compliance. (1) The director of fire protection ((services)) has the responsibility under WAC 212-12-010, chapters 19.27 and 48.48 RCW, and chapters ((51-20, 51-21, 51-22, and 51-24)) 51-40, 51-42, 51-44, and 51-45 WAC to require occupancies, operations, or processes to be conducted and/or maintained so as not to pose a hazard to life or property and for the removal of fire and life safety hazards.
- (2) New construction or remodeling shall be in conformance with the State Building Code Act and chapters 19.27 and 48.48 RCW.
- (3) All occupancies, operations, or processes in which the director of fire protection ((services)) has responsibility shall comply with the provisions of this chapter.

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AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

WAC 212-12-020 Inspection. (1) The director of fire protection ((services)) shall have the authority to:

- (a) Enter upon and examine any building or premises where any fire has occurred and other buildings and premises adjoining or near thereto per RCW 48.48.030(1), 48.48.060, 48.48.070, and 48.48.080.
- (b) Enter upon and examine any public building or premises to inspect for fire hazards per RCW 48.48.030(2), 48.48.040, 48.48.045, and 48.48.050.
- (c) Collect and disseminate statistical information and reports per RCW 48.48.065.
- (2) The director of fire protection ((services)) may designate another person or agency to conduct the inspection.

AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

- WAC 212-12-025 Right of appeal. Any person may appeal any decision made by fire protection ((services)) bureau under this chapter through the following procedure:
- (1) The first level of appeal is to the ((ehief deputy)) assistant state fire marshal. The appeal must be submitted in writing to the ((ehief deputy)) assistant state fire marshal within thirty days of receipt of the decision in question. The ((ehief deputy)) assistant state fire marshal shall reply to the appellant within ten days of receipt of such appeal.
- (2) The second level of appeal is to the director of fire protection ((services)). If the appellant wishes to appeal the decision of the ((ehief deputy)) assistant state fire marshal, he/she shall, within ten days of the receipt of that decision, submit a written appeal to the director of fire protection. The director of fire protection ((services)) shall reply to the appellant within ten days of receipt of such appeal.
- (3) Should this process not satisfy the appellant, he or she may further appeal per chapter 34.05 RCW.

AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

- WAC 212-12-030 Standards. The fire and life safety standards of the fire protection ((services division)) <u>bureau</u> shall include the following:
- (1) Chapter ((51-20)) 51-40 WAC, State Building Code adoption ((and amendment)) of the ((1991)) 1997 edition of the Uniform Building Code, standards and amendments.
- (2) ((Chapter 51-21 WAC, State Building Code adoption and amendment of the 1991 edition of the Uniform Building Code Standards.
- (3)) Chapter ((51-22)) 51-42 WAC, State Building Code adoption ((and amendment)) of the ((1991)) 1997 edition of the Uniform Mechanical Code, standards and amendments
- (((4))) (3) Chapter ((51-24)) 51-44 WAC, State Building Code adoption ((and amendment)) of the ((1991)) 1997 edition of the Uniform Fire Code, and amendments.

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(((5))) (4) Chapter ((51-25)) 51-45 WAC, State Building Code adoption ((and amendment)) of the ((1991)) 1997 edition of the Uniform Fire Code Standards.

AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

WAC 212-12-035 Special requirements. In addition to the fire and life safety standards listed in WAC 212-12-030, the following shall apply:

- (1) ((In Group I Occupancies, light hazard areas shall be provided with 140 to 165 degree F. quick response sprinklers as listed by Underwriters Laboratories and/or Factory Mutual:
- (2))) In nursing homes, <u>fire alarm system</u> annunciators shall be provided where the system serves more than one floor, one fire or smoke division, or one building. They shall be located at each main nurses' station on each floor, fire or smoke division, and/or building.
- (((3))) (2) In all Group E-3, I, LC Occupancies, annual certification of fire alarm systems shall be performed by the holder of a current low-voltage electrical contractors specialty license issued by the department of labor and industries.
- (((4) In addition to other requirements as specified in this chapter, the following shall apply to residential group care facilities classified as Group R, Division 1 Occupancies including such residential group care facilities as adult family homes, adult residential rehabilitation facilities, alcoholism intensive inpatient treatment services, sub-acute alcoholism detoxification services, alcoholism long term treatment services, alcohol recovery house services, boarding homes, child birth centers, group care facilities, group care facilities for severely and multiply handicapped children, private adult treatment homes, residential treatment facilities for psychiatrically impaired children and youth, and other like facilities and occupancies when classified as a Group R, Division 1 Occupancy.
- (a) Have installed an approved fully automatic fireextinguishing system conforming to UBC Standard No. 38-1.
- (b) In buildings with individual floor areas over 6,000 square feet, have an approved smoke barrier dividing the floor into at least two compartments, provided that each compartment shall provide no less than thirty square feet per occupant.
  - (e) Be a minimum Type V, one-hour construction.
- (d) Be equipped with an approved smoke detector and automatic shutoff in each single system providing heating and cooling air. Automatic shutoffs shall shut down the airmoving equipment when smoke is detected in a circulating airstream or as an alternate, when smoke is detected in rooms served by the system.

When required, smoke detectors shall be installed in the main circulating-air duct ahead of any fresh air inlet, or installed in each room or space served by the return air duct. Activation of any detector shall cause the air moving equipment to automatically shut down. An enclosure shall be provided for a stairway, ramp, or escalator serving only one adjacent floor.

- (e) Facilities located above the first floor shall have at least two exits directly to the exterior of the building, or into separate exit systems in accordance with Section 3309(a), Uniform Building Code.
- (f))) (3) Every story, and basements ((or portion thereof)) of Group LC Occupancies shall have not less than two exits.

- Exception((s)): ((1-)) Basements used exclusively for the service of the building may have one exit. For the purpose of this exception, storage rooms, laundry rooms, maintenance offices, and similar uses shall not be considered as providing service to the building.
  - ((2. Storage rooms, laundry rooms, and maintenance offices not exceeding three hundred square-feet in floor area may be provided with only one exit.
  - (g) Corridors shall be not less than six feet in width.
- (h) In the event of power failure, exit illumination shall be automatically provided from an emergency system)) (4) In all Groups E-3, I, and LC Occupancies, emergency lighting for means of egress shall be provided. Emergency systems shall activate automatically in a power failure and be supplied from storage batteries or an on-site generator set ((and)). The system shall be installed in accordance with the requirements of the Electrical Code.
- (((i) Exit doors shall be openable from the inside with one motion and without the use of a key or any special knowl-
- (j) An approved automatic and manual fire alarm system, supervised by an approved central, proprietary or remote station service, shall be provided in accordance with Article 14 of the Uniform Fire Code.
- (k) Exits shall be provided as per the requirements for a Group I, Division 1.2 Occupancy.
- (5) Nothing in this chapter affects the provisions of chapter 70.77 or 18.160 RCW, chapter 212-17 or 212-80 WAC.))

AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

WAC 212-12-040 Fire ((evacuation)) emergency plan. All Group I, Group E, Group LC and Group R Occupancies shall develop and maintain a written fire ((evacuation)) emergency plan. The plan shall include the following:

- (1) Action to take by the person discovering a fire.
- (2) Method of sounding an alarm on the premises.
- (3) Actions to take for evacuation ((of the building)) and assuring accountability of the occupants.
- (4) ((Action to take pending arrival of the fire department.
- (5))) An evacuation floor plan identifying exits ((doors and windows)).
- (((6))) (5) In Group R, Division 1 Occupancies and Group R, Division 3 Occupancies used as transient accommodations, a copy of the written evacuation plan shall be posted in each guest room((, preferably on the main exit door)).

AMENDATORY SECTION (Amending Order 93-02, filed 2/16/93, effective 3/19/93)

WAC 212-12-044 Fire drills. In all Group I, Group E, Group LC, and Group R Occupancies, at least twelve planned fire drills shall be held every year. Drills shall be conducted quarterly on each shift in Group I, Group R, and Group LC Occupancies and monthly in Group((s)) E ((and R)) Occupancies to familiarize personnel with signals and emergency action required under varied conditions. A detailed written record of all fire drills shall be maintained and available for inspection at all times. When drills are conducted between 9:00 p.m. and 6:00 a.m., a coded announcement may be used instead of audible alarms. Fire drills shall include the transmission of a fire alarm signal and simulation of emergency conditions. The ((local-fire department)) fire alarm monitoring company shall be notified prior to the activation of the fire alarm system for drill purposes and again at the conclusion of the transmission and restoration of the fire alarm system to normal mode.

#### WSR 02-11-051 PROPOSED RULES DEPARTMENT OF REVENUE

[Filed May 9, 2002, 1:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-077.

Title of Rule: New section WAC 458-16-560 Housing for very low-income households.

Purpose: WAC 458-16-560 explains the property tax exemption for nonprofit entities providing housing or mobile home lots within a mobile home park to very low-income households available under RCW 84.36.560.

Statutory Authority for Adoption: RCW 84.36.865.

Statute Being Implemented: RCW 84.36.560.

Summary: WAC 458-16-560 describes the exemption that may be claimed by nonprofit entities providing rental housing or lots for mobile homes within a mobile home park for occupancy by a very low-income household in accordance with RCW 84.36.560. It also explains the mechanics of claiming the property tax exemption allowed under this statute and provides applicable examples.

Reasons Supporting Proposal: To establish a rule explaining the property tax exemption provided in RCW 84.36.560.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6113; Implementation and Enforcement: Sandy Guilfoil, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

Name of Proponent: Department of Revenue, govern-

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 84.36.560 provides a property tax exemption to nonprofit organizations that provide rental housing or mobile home lots within a mobile home park for very lowincome households. The statute was first enacted in 1999. It was extensively rewritten in 2001 and codified as chapter 7, Laws of 2001 1st sp.s.

The new rule, WAC 458-16-560, is being proposed at this time to provide guidance and information to nonprofit entities seeking an exemption under RCW 84.36.560. The rule explains the requirements of the statute and provides examples demonstrating how the department will administer the exemption. In particular, the rule contains:

- Definitions of terms used in the underlying statute and the rule;
- Details outlining the eligibility requirements for either a total or partial exemption under this statute;
- Information as to how the department will process an application for exemption and determine the size of the exemption for a facility with only three or less units or a mobile home park with only three or less lots with vacancies on January 1st;
- An explanation of the eligibility requirements for facilities with ten or less units or mobile home parks with ten or less lots that allow the income of the very low-income households to grow to the low-income level before the status of the exemption will be affected;
- A description and an example of how this exemption will be applied to group homes;
- An explanation of the eligibility of very low-income housing if it is unoccupied at the time of initial application or at any time after an exemption has been granted;
- A description of the exclusive use of the property requirement; and
- An explanation of the payments in-lieu of property tax that a nonprofit entity receiving an exemption under this statute may agree to make to a city, county, or other political subdivision for the improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the exempt property.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Profit making businesses are not affected by this rule. WAC 458-16-560 does not impose any additional burdens or responsibilities upon a small business.

RCW 34.05.328 does not apply to this rule adoption. This is an interpretative rule as defined by RCW 34.05.328.

Hearing Location: Capital Plaza Building, 1025 Union Avenue S.E., 4th Floor Large Conference Room, Olympia, WA, on Wednesday, June 26, 2002, at 11 a.m.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date at (360) 570-6175, or TTY 1-800-451-7985.

Submit Written Comments to: Kim M. Qually, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail kimq@dor.wa.gov, by June 26, 2002.

Date of Intended Adoption: July 3, 2002.

May 9, 2002

Alan R. Lynn, Rules Coordinator Legislation and Policy Division

#### **NEW SECTION**

WAC 458-16-560 Housing for very low-income households. (1) Introduction. This rule explains the exemption that may be claimed by nonprofit entities providing rental housing or lots for mobile homes within a mobile home park for occupancy by a very low-income household in accordance with RCW 84.36.560.

- (2) **Definitions.** For the purposes of this rule, the following definitions apply:
- (a) "CTED" means the state department of community, trade, and economic development or its successor agency;
  - (b) "Department" means the state department of revenue;
- (c) "Group home" means a single-family dwelling financed, in whole or in part, by the state department of community, trade, and economic development or by an affordable housing levy under RCW 84.52.105. A "group home" has multiple units occupied on a twenty-four-hour basis by persons who are not related by birth or marriage and who are not dependent upon each other financially. Residents of a "group home" typically receive financial assistance from the federal or state government, such as Social Security benefits or supplementary security insurance;
- (d) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;
- (e) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing or mobile home park becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted;
- (f) "Rental housing" means a residential housing facility or group home that is occupied, but not owned, by very lowincome households;
- (g) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located. The median income level is that which is in effect as of January 1st of the year the application for exemption is submitted; and
  - (h) "Nonprofit entity" means a:
- (i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code;
- (ii) Limited partnership in which a general partner is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2)(a); or

- (iii) Limited liability company in which a managing member is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2)(a).
- (3) Total exemption Requirements for rental housing or lot(s) for a mobile home. Real and personal property is exempt from all property taxes if:
- (a) The property is owned or used by a nonprofit entity in providing rental housing for very low-income households or used to provide a lot of land upon which a mobile home for a very low-income household will be placed in a mobile home park;
- (b) The benefit of the exemption is received by the nonprofit entity. That is, if the property is leased to or used by, but not owned by, a nonprofit entity, the reduction in property taxes due to the exemption is passed on to the nonprofit user either through a reduction in rent, reimbursement of rent, or property tax paid;
- (c) At least seventy-five percent of the occupied dwelling units in the rental housing or lots in the mobile home park are occupied by very low-income households; and
- (d) The rental housing or lots in the mobile home park are insured, financed, or assisted, in whole or in part, through:
- (i) A federal or state housing program administered by CTED; or
- (ii) An affordable housing levy authorized under RCW 84.52.105.
- (4) Partial exemption Determination of the amount of exemption. If less than seventy-five percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by very low-income households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption on the housing's or park's personal property. The property must be owned or used by a nonprofit entity in providing rental housing for very low-income households or used to provide a lot upon which a mobile home for a very low-income household will be placed in a mobile home park.
- (a) A partial exemption will be allowed for each dwelling unit in the rental housing or for each lot in the mobile home park occupied by a very low-income household; and
- (b) The amount of the real property exemption will be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The formula for determining the fraction is as follows:
- (i) The numerator of the fraction is the number of dwelling units or lots occupied by very low-income households as of December 31st of the first assessment year in which the rental housing facility or mobile home park becomes operational or on January 1st of each subsequent assessment year in which the claim for exemption is submitted; and
- (ii) The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year in which the rental housing facility or

- mobile home park becomes operational or on January 1st of each subsequent assessment year in which the claim for exemption is submitted.
- (5) Exempt facility with only three or less units or mobile home park with only three or less lots with vacancy on January 1st Size of exemption. If the rental housing or mobile home park is comprised of only three or less dwelling units or lots and there are any unoccupied dwelling units or lots on January 1st after receipt of a property tax exemption, the department will determine the size of the exemption based on the number of occupied dwelling units or lots on May 1st of the assessment year in which a claim for exemption is submitted. For example, if one-half of an exempt duplex is vacant on January 1st, which is the duplex's third year of operation, the department will determine the size of the exemption based on the number of occupied units on May 1st of that assessment year.
- (6) Facilities with ten or less units or mobile home parks with ten or less lots Allowance for income growth. Because the occupants of rental housing and mobile home parks granted an exemption under RCW 84.36.560 are generally attempting to improve their financial situation, the income of the household is likely to fluctuate during the time they occupy the housing unit or lot in the mobile home park.
- (a) In an attempt to assist these households in improving their circumstances, the exemption will continue for specific rental units or mobile home lots when the household's income rises above fifty percent of median income under the following conditions:
- (i) The currently exempt rental housing unit in a facility with ten units or fewer or mobile home lot in a mobile home park with ten lots or fewer was occupied by a very low-income household at the time the exemption was granted;
- (ii) The household's income rises above fifty percent of the median income but remains at or below eighty percent of median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located; and
- (iii) The rental housing or mobile home park continues to meet the certification requirements of a very low-income housing program administered by CTED or the affordable housing levy under RCW 84.52.105; and
- (b) If a dwelling unit or mobile home lot receiving an exemption under this exception becomes vacant and is subsequently rerented, the income of the household moving into the unit or onto the mobile home lot must be at or below fifty percent of the median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located to remain exempt from property tax.
- (c) Example. If a unit is occupied by a household whose income rises up to sixty percent of median income, the unit will retain its exempt status as long as the household continues to occupy the unit and the household's income remains below eighty percent of median income. If the residents of this unit move out on June 1st and the unit is subsequently rented to a household whose income is at or below fifty per-

cent of median income, the unit will retain its exempt status. Conversely, if the unit is rented to a household whose income is above fifty percent of median income, the unit becomes ineligible for exemption as of January 1st of the following year.

- (7) Group homes Income of residents. The income of the individual residents of a group home, as defined in subsection (2) of this rule, will not be combined so as to constitute the income of a single household. Each resident will be considered an independent household occupying a separate dwelling unit. In other words, the income of the residents of a group home will not be aggregated when the department determines the size of the exemption the group home is entitled to receive. For example, if there are six residents in a group home, the department will process the application for exemption as if there were six separate dwelling units and determine the size of the exemption on that basis. If three of the residents have income at or below fifty percent of median income, the home will receive a fifty percent reduction in the property taxes due on the home.
- (8) Eligibility of property unoccupied at the time of initial application or at any time after the exemption is granted. Property that is unoccupied at the time of application or on January 1 of any subsequent year is still eligible for exemption if certain conditions are met. If the property is currently taxable, it may receive exempt status as of the assessment year in which the claim for exemption is submitted. If the property is currently exempt but the exempt use will cease or will be reduced because of renovations or repairs, the exempt status of the property may be continued for taxes payable the next year. The following conditions must be satisfied to receive an exemption under either of these circumstances:
- (a) The rental housing or mobile home park will be used for the exempt purpose stated in RCW 84.36.560 within two assessment years;
- (b) The nonprofit entity applying for or receiving the exemption has obtained a commitment for financing, in whole or in part, to acquire, construct, remodel, renovate, or otherwise convert the property to provide housing for very low-income households from:
- (i) A federal or state housing program administered by CTED; or
- (ii) An affordable housing levy authorized under RCW 84.52.105;
- (c) The nonprofit entity has manifested its intent in writing to construct, remodel, renovate, or otherwise convert the rental housing or mobile home park to housing for very low-income households; and
- (d) If less than the entire facility or mobile home park will be used to provide rental housing or mobile home lots for very low-income households, only that portion that will be so used is entitled to an exemption under this subsection.
- (9) Exclusive use required. To be exempt under RCW 84.36.560, the property must be exclusively used to provide rental housing or mobile home lots for very low-income households, except as provided in RCW 84.36.805.
- (10) Payments in-lieu of property tax will be accepted. Any nonprofit entity that qualifies for a property

tax exemption under RCW 84.36.560 may agree to make payments to the city, county, or other political subdivision for the improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the exempt rental housing facility or mobile home lots. However, these payments may not exceed the amount of property tax last levied as the annual tax by the city, county, or political subdivision upon the property prior to the time the exemption was effective.

#### WSR 02-11-057 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING

[Filed May 10, 2002, 2:14 p.m.]

The Department of Licensing hereby withdraws proposed rule, chapter 308-14 WAC, regulating court reporters, filed with your office on April 3, 2002, as part of WSR 02-08-074, which included amending WAC 308-14-085 Examination, 308-14-100 License renewal—Penalties, 308-14-120 Examination appeal procedures, 308-14-130 Standards of professional practice, 308-14-135 Transcript preparation format, 308-14-210 Application of brief adjudicative proceedings; and repealing WAC 308-14-090 Application.

Rosie McGrew Licensing Manager

# WSR 02-11-058 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed May 10, 2002, 4:35 p.m.]

The Economic Services Administration (ESA) is requesting the withdrawal of three related proposed rule-making filings. They are:

- WSR 01-19-019 filed on September 11, 2002 (expired)
- WSR 02-05-068 filed on February 15, 2002 (supplemental)
- WSR 02-09-063 filed on April 15, 2002 (supplemental)

Brian Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-059 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)
[Filed May 10, 2002, 4:37 p.m.]

The Aging and Adult Services Administration (AASA) would like to withdraw WAC 388-78A-060 from proposed rule making filed as WSR 01-23-074.

Brian Lindgren, Manager Rules and Policies Assistance Unit

# WSR 02-11-067 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration) [Filed May 10, 2002, 4:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-01-043.

Title of Rule: Amendments to WAC 388-79-010, 388-79-020, 388-79-030 and 388-79-040, concerning guardianship fees for Medicaid clients of the department.

Purpose: (1) To provide for a total of thirty days' notice of proceedings; (2) to prohibit deductions from participation for fees and costs occurred prior to Medicaid eligibility, during any subsequent period of ineligibility, or after the client has died; and (3) to limit, to the extent possible, the court's ability to advance fees at one accounting and then to award higher fees at the next accounting after the services as [are] rendered.

Statutory Authority for Adoption: RCW 11.92.180, 43.20B.460.

Statute Being Implemented: RCW 11.92.180 and 43.20B.460.

Summary: (1) To provide for a total of thirty days'notice of proceedings; (2) to prohibit deductions from participation for fees and costs occurred prior to Medicaid eligibility, during any subsequent period of ineligibility, or after the client has died; and (3) to limit, to the extent possible, the court's ability to advance fees at one accounting and then to award higher fees at the next accounting after the services as [are] rendered. AASA believes that these changes will not have a substantial impact or a more than minor cost to the small businesses affected.

Reasons Supporting Proposal: This will help our administration estimate and possibly close the accounting period once a regular payment on an account can be established and once deductions for participation during periods of ineligibility are eliminated. This rule will also help our regional administrators prepare by adding twenty days making notice of proceedings a total of providing thirty days. Eliminating deductions during periods of ineligibility will also save department money.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kristi Olson, P.O. Box 45600, Olympia, WA 98504-5600, olsonkl2@dshs.wa.gov, (360) 725-2537.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: (1) To modify existing rules on guardianship fees charged to Medicaid recipients receiving long-term care services who are required to participate in the cost of their care; (2) to preclude allowance of prospective or retrospective guardianship fees and administrative costs prior to the Medicaid recipient's eligibility for long-term care services or after the recipient's death; and (3) to change the home and community services regional administrator notice by adding twenty days to the notice time.

The department expects the loss of revenue to the small businesses affected will be minor.

Proposal Changes the Following Existing Rules: WAC 388-79-010, clarifies the applicability of guardianship rules per RCW 11.92.180 and 43.20B.460.

WAC 388-79-020, clarifies definitions used in this chapter.

WAC 388-79-030, adding language to preclude the allowance of prospective or retrospective guardianship fees and administrative costs prior to the Medicaid recipient's eligibility for long-term care services or after the recipient's death.

WAC 388-79-040, language to allow the regional administrator an added twenty days notice before the guardian files with the court.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared because the department does not find the cost to the small businesses affected to be more than minor.

RCW 34.05.328 does not apply to this rule adoption. The rule does not meet the definition of a significant legislative rule per RCW 34.05.328 (5)(b)(vii), exempting DSHS rules relating only to client medical or financial eligibility or rules concerning liability for care of dependents.

Hearing Location: Office Building 2 Auditorium (DSHS Headquarters) (parking at 12th and Washington), 1115 Washington, Olympia, WA, 98504, on June 25, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May 21, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaaxH @dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov by 5 p.m., June 25, 2002.

Date of Intended Adoption: Not earlier than June 26, 2002.

May 8, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-10-055, filed 4/30/98, effective 5/31/98)

WAC 388-79-010 ((Applicability and reason for the ehapter)) Purpose. ((It is the intent of this WAC to carry out RCW 43.20B.460, and that part of)) These rules implement RCW 11.92.180 ((which allows)) and 43.20B.460 to the extent that those statutes require the department to ((set maximum)) establish by rule the maximum amount of guardianship fees and additional compensation for administrative costs that may be allowed by ((courts in guardianships for a department of social and health services (DSHS) client residing in a nursing facility or in a residential or home setting, and who is required by DSHS to contribute a portion of their income towards the cost of residential or supportive services)) the court for a guardian or limited guardian of an incapacitated person who is a Medicaid client of the department and is thus required by federal law to contribute to the cost of the client's long-term care.

AMENDATORY SECTION (Amending WSR 98-10-055, filed 4/30/98, effective 5/31/98)

- WAC 388-79-020 Definitions. "Administrative costs" or "costs" means necessary costs paid by the guardian including attorney fees ((and costs of service of process at the least expensive level)).
- (((2))) "((Department)) Client" means a person who ((has been approved to receive a grant or program administered by the department)) is eligible for and is receiving Medicaid-funded long-term care.
- "Guardianship fees" or "fees" means necessary fees charged by a guardian for services rendered on behalf of a client.
- "Participation" means the amount the client pays from current monthly income toward the cost of the client's long-term care.

AMENDATORY SECTION (Amending WSR 98-10-055, filed 4/30/98, effective 5/31/98)

WAC 388-79-030 ((Guardianship)) Maximum fees and ((administrative)) costs ((including attorney fees)). The superior court may allow guardianship fees and administrative costs in an amount set out in an order. For orders entered after June 15, 1998, ((for a department client)) where the order establishes or continues a legal guardianship for a department client, and requires a future review or accounting; then unless otherwise modified by the process described in WAC 388-79-040:

(1) The amount of guardianship fees shall not exceed one hundred seventy-five dollars per month;

- (2) The amount of administrative costs directly related to establishing a guardianship for a department client shall not exceed seven hundred dollars; and
- (3) ((In any order on review)) The amount of administrative costs other than the costs of establishing the guardianship shall not exceed a total of six hundred dollars during any three-year period.

AMENDATORY SECTION (Amending WSR 98-10-055, filed 4/30/98, effective 5/31/98)

WAC 388-79-040 Procedure ((to revise award letter)) for allowing fees and costs from client participation.
(1) After June 15, 1998 where a ((department)) client is subject to a guardianship ((then)) the department shall be entitled to notice of proceedings as described in RCW 11.92.150.

(((1))) (2) The notice ((shall be given to the appropriate)) must be served to the department's regional administrator of the program ((serving the department)) that is providing services to the client. A list of the regional administrators will be ((available)) furnished upon request.

- (((2))) (3) If the fees and costs requested and established by the order are equal to or ((lower)) less than the maximum ((amount set by this rule then the award letter or document setting the department's)) amounts allowed under WAC 388-79-030, then the department will adjust the client's current participation ((shall be adjusted)) to reflect ((that amount)) the amounts allowed upon receipt by the department of the court order setting ((a)) the monthly ((amount)) amounts.
- (((3))) (4) Should fees and costs ((above those requested)) in excess of the amounts allowed in WAC 388-79-030 be requested:
- (a) At least twenty days before filing the request with the court, the guardian must present the request in writing to the appropriate regional administrator ((will be given notice of the hearing as described in RCW 11.92.150, and provided with copies of all supporting documents filed with the court)) to allow the department an opportunity to consider whether the request should be granted on an exceptional basis.
- (b) <u>In considering a request for extraordinary fees or costs, the department must consider the following factors:</u>
- (i) The department's obligation under federal and state law to ensure that federal Medicaid funding is not jeopardized by noncompliance with federal regulations limiting deductions from the client's participation amount;
- (ii) The usual and customary guardianship services for which the maximum fees and costs under WAC 388-79-030 must be deemed adequate for a Medicaid client, including, but not limited to:
  - (A) Acting as a representative payee;
  - (B) Managing the client's financial affairs;
  - (C) Preserving and/or disposing of property;
  - (D) Making health care decisions;
  - (E) Visiting and/or maintaining contact with the client;
- (F) Accessing public assistance programs on behalf of the client;
- (G) Communicating with the client's service providers; and
- (H) Preparing any reports or accountings required by the court.

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- (iii) Extraordinary services provided by the guardian, such as:
  - (A) Unusually complicated property transactions;
- (B) Substantial interactions with adult protective services or criminal justice agencies;
- (C) Extensive medical services setup needs, and/or emergency hospitalizations; and
- (D) Litigation other than litigating an award of guardianship fees or costs.
- (c) Should the court determine after consideration of the facts((, law and evidence of the case)) and law, that fees and costs ((higher than normally)) in excess of the amounts allowed in WAC 388-79-030 are just and reasonable and should be allowed then the ((award letter or document setting the department)) department will adjust the client's current participation ((shall be adjusted)) to reflect ((that amount)) the amounts allowed upon receipt by the department of the court order setting ((a)) the monthly ((amount)) amounts.
- (5) In no event may a client's participation be prospectively or retrospectively reduced to pay fees and costs incurred before the effective date of the client's Medicaid eligibility; or during any subsequent time period when the client was not eligible for or did not receive long-term care services; or after the client has died.
- (6) If the court, at a prior accounting, has allowed the guardian to receive fees from the client's monthly income in advance of services rendered by the guardian, and the client dies before the next accounting the fees and costs allowed by the court at the final accounting may be less than, but may not exceed the amounts advanced and paid to the guardian from the client's income.

## WSR 02-11-070 PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed May 13, 2002, 9:47 a.m.]

Continuance of WSR 02-07-080.

Preproposal statement of inquiry was filed as WSR 01-17-08 [01-17-083] and 01-20-035.

Title of Rule: Rules relating to pesticides containing the active ingredient clopyralid, WAC 16-228-1235 through 16-228-1238.

Purpose: To restrict some uses of pesticides containing the active ingredient clopyralid. The restrictions are intended to prevent clopyralid residues in compost at levels that may be damaging to plants grown in or around compost.

Statutory Authority for Adoption: Chapters 15.58, 17.21, and 34.05 RCW.

Statute Being Implemented: Chapters 15.58 and 17.21 RCW.

Summary: Based on the large volume of public comment received on this issue the Department of Agriculture will take an additional two weeks to consider them. This continuance changes the proposed adoption date to May 28, 2002.

Reasons Supporting Proposal: The proposed restrictions are intended to prevent clopyralid residues in compost at lev-

els that may be damaging to plants grown in or around compost.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cliff Weed, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2036.

Name of Proponent: Department of Agriculture, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule places restrictions on pesticides containing the active ingredient clopyralid when labeled for use on cereal grains, grass used for hay, lawns and turf including golf courses. The rules spell out the restrictions and requirements for the sale, distribution and use on lawns and turf including golf courses. The proposed restrictions are intended to prevent clopyralid residues in compost at levels that may be damaging to plants grown in or around compost.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Department of Agriculture's Pesticide Management Division conducted an economic impact survey of all Washington state licensed pesticide dealers and commercial applicators licensed to apply pesticides to turf and ornamental weeds. Based upon the results of that survey, the department has concluded that any new compliance costs imposed by the proposed new rules are not "more than minor," therefore a small business economic impact statement is not required.

RCW 34.05.328 does not apply to this rule adoption.

Date of Intended Adoption: May 28, 2002.

May 13, 2002 Bob Arrington Assistant Director

# WSR 02-11-083 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed May 15, 2002, 8:20 a.m.]

The Washington State Department of Agriculture hereby withdraws the proposal to repeal the Asparagus Marketing Order, under chapter 16-557 WAC, originally filed on November 7, 2001, WSR 01-22-104, and continued on April 4, 2002, WSR 02-09-005. The department conducted a referendum on the proposal to terminate the Washington Asparagus Commission in accordance with chapter 15.65 RCW and the referendum failed.

Anyone with questions should contact Deborah Anderson, Commodity Commission Coordinator, (360) 902-2043.

William E. Brookreson

Acting Director

[ 45 ] Proposed

# WSR 02-11-092 PROPOSED RULES WASHINGTON STATE UNIVERSITY

[Filed May 17, 2002, 1:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-104.

Title of Rule: Campus traffic and parking regulations.

Purpose: To reorganize, clarify and streamline existing parking regulations in accordance with board of regents directive.

Statutory Authority for Adoption: RCW 28B.30.150.

Summary: Removes fine structure from WAC and allows fines to be set by board of regents without codification in WAC, establishes residence hall parking, adds definition of "fire zone," addresses counterfeit permits, removes obsolete language and sections.

Reasons Supporting Proposal: To reorganize, clarify and streamline existing parking regulations.

Name of Agency Personnel Responsible for Drafting: John Shaheen, Glenn Ford, Public Safety Building, P.O. Box 7300, Pullman, WA 99164, (509) 335-4911; Implementation and Enforcement: John Shaheen, Public Safety Building, P.O. Box 7300, Pullman, WA 99164, (509) 335-4911.

Name of Proponent: Board of Regents.

Explanation of Rule, its Purpose, and Anticipated Effects: Removes fine structure from WAC and allows fines to be set by board of regents without codification in WAC, establishes residence hall parking, adds definition of "fire zone," addresses counterfeit permits, removes obsolete language and sections.

The effect will be to reorganize, clarify and streamline existing parking regulations and provide for parking needs of students living in residence halls.

Proposal does not change existing rules. Obsolete sections eliminated, fine structure eliminated, additional parking areas provided for students residing on campus.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Conference Room 405, Lighty Student Building, Washington State University, Pullman, Washington 99164, on June 25, 2002, at 1:00.

Assistance for Persons with Disabilities: Kirsten Pauli by June 21, (509) 335-7739.

Submit Written Comments to: Loretta M. Lamb, P.O. Box 64105, Pullman, WA 99164, fax (509) 335-4642, by June 21, 2002.

Date of Intended Adoption: June 25, 2002.

May 10, 2002
Loretta M. Lamb
Associate Vice-President for
Personnel and Administration
Rules Coordinator

### WASHINGTON STATE UNIVERSITY: CAMPUS TRAFFIC AND PARKING REGULATIONS

AMENDATORY SECTION (Amending WSR 95-13-003, filed 6/8/95, effective 7/9/95)

WAC 504-15-100 Definitions. The definitions in this section are applicable within the context of these regulations.

- (1) Campus. Describes all property owned, leased, and/or controlled by Washington State University in Pullman which is or may hereafter be dedicated mainly to the educational, research, housing, recreational, parking, or other activities of Washington State University.
- (2) Commuter student. Any student who does not live in a residence hall (dormitory). All students living in fraternities, sororities, university housing (other than residence halls), and private housing are considered to be commuter students.
- (3) Disability zone. A parking zone identified with a sign bearing the international disability symbol that is restricted at all times to use by vehicles bearing a valid WSU disability parking permit or indicator, or any state-issued disability parking permit.
  - (4) Dormitory. See residence hall.
- (5) Fire zone. An area needed for emergency access to buildings, fire hydrants, or fire equipment. Such areas include, but are not limited to areas with adjacent curbs or rails painted red.
- (((5))) (6) Gate card. A plastic card that activates the gates controlling access to certain parking areas.
- (((6))) (7) Holiday or university holiday. A day when all university facilities are generally closed (e.g., Thanksgiving Day, Christmas Day, New Year's Day). Vacation days are not considered holidays. See definition of vacation.
- (((7))) (8) Housing area. Housing units or apartments, and their respective parking areas, that are owned by the university, but are not included as residence halls.
- (((8))) (9) Illegal use of permit. A parking violation in which a citation is issued under the following circumstances:
  - (a) Use of a permit/indicator on an unspecified vehicle.
  - (((b) Use of a counterfeit permit/indicator.))
- (((e))) (b) Use of a permit/indicator obtained under false pretenses.
  - (((d))) (c) Use of a modified permit/indicator.
- (((e))) (d) Use and/or retention of a permit/indicator by person(s) ineligible, or no longer eligible, for such a permit as described and authorized in this chapter.
- (((9))) (10) Indicator. A decal displayed adjacent to a parking permit which more clearly defines the parking areas available to a permit holder.
- (((10))) (11) Loading zone. A loading dock, or an area signed "loading zone" adjacent to a facility, in a parking area, or near a residence hall. Such an area is intended for loading and unloading bulky or voluminous material. Loading zones are restricted at all times.
- (((11))) (12) Moped. Any two-wheeled or three-wheeled motor vehicle with an engine displacement of 50 cc or less.

.(((12))) (13) Motorcycle. Any two-wheeled or threewheeled motor vehicle with an engine displacement greater than 50 cc.

(((13) (14) Motor vehicle. All motor-driven conveyances except wheelchairs.

(((14) (15) No parking zone. Any area not specifically marked and/or signed for parking. Such areas include, but are not limited to areas with adjacent curbs or rails painted yellow or red.

(((15) (16) Park/parking. This refers to the placement or standing of a vehicle, with or without a driver in attendance, and with or without the engine running.

(((16) (17) Parking permit. A vinyl, plastic, or paper instrument sanctioned by parking services that is displayed from a vehicle, and authorizes parking in specified areas.

(((17) (18) Resident student. A student living in a residence hall.

(((18) (19) Residence hall. ((The following living units are considered r)) Residence halls include the following: Streit Hall, Perham Hall, Regents Hall, Scott Hall, Coman Hall, Wilmer Hall, Davis Hall, Duncan-Dunn Hall, Community Hall, Stevens Hall, McCroskey Hall, Gannon Hall, Goldsworthy Hall, McEachern Hall, Orton Hall, Rogers Hall, Stephenson Complex, Stimson Hall, Waller Hall, ((and)) Kruegel McAllister Hall and Honors Hall.

((<del>(19)</del> (20) Service vehicle. A vehicle used to provide a service for the university or a tenant or contractor of the university (e.g., a university-owned vehicle or a privately-owned vehicle with a valid service permit displayed).

(((20) (21) Service zone. Parking spaces designated for the use of university vehicles, other government-owned vehicles, and vehicles displaying a service indicator or commercial permit. Authorized vehicles may park in these zones for a maximum of fifteen minutes, except for vehicles that display a commercial permit, or a service indicator issued for an extended time. Service zones are restricted at all times.

 $((\frac{(21)}{21})$  (22) Resident priority zone (i.e., crimson zone, gray zone). A parking area close to a residence hall. Parking in these areas is assigned to resident students by residence life personnel, and/or residence hall officers.

 $((\frac{(22)}{23}))$  Staff. For the purposes of these regulations, "staff" includes all faculty, classified staff, administrative and professional employees, temporary employees, and other support personnel employed by the university, and the personnel of other activities located on campus. Teaching assistants, research assistants, and other students employed by the university are not "staff." They are considered as students for the purpose of these rules.

(((23))) (24) Student. Any person who has been admitted to the university, and who is either attending classes, or actively pursuing a degree or certificate.

(((24))) (25) Summer session. The summer session includes all summer school sessions beginning on the first day of the earliest session, and ending on the last day of the latest session.

((<del>(25)</del>)) (26) University holiday. See holiday.

(((26))) (27) Vacation. A period of time when classes or final exams are not in session. Except for holidays that fall within this period, the business offices of the university are open during this time.

(((27))) (28) Vehicle. See motor vehicle.

(((28))) (29) Visitors. Persons who are not staff or students and who only visit the campus on an occasional basis.

(((29))) (30) Wheel lock. A device used to temporarily immobilize a vehicle (i.e., on-the-spot impoundment).

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 90-11-078, filed 5/16/90, effective 7/1/90)

WAC 504-15-200 Enforcement authority. Parking services ((is)) and the police department are charged with the impartial enforcement of these regulations. Enforcement personnel have authority to issue parking citations, to impound vehicles, and to control access to areas.

AMENDATORY SECTION (Amending WSR 95-13-003, filed 6/8/95, effective 7/9/95)

WAC 504-15-210 Times of enforcement. Parking regulations are subject to enforcement at all times.

- (1) Permit areas: All parking zones are limited to authorized permit holders during specific hours. These hours are posted in each parking zone either at the entrance to parking areas, or along roadways where parking is marked. Restricted spaces are enforced at all times. See subsection (4) of this section, special conditions.
- (2) Restricted spaces: These spaces are restricted for their designated purpose at all times (twenty-four hours a day, seven days a week):
  - (a) Disability.

(((b) Gray zones (resident priority areas).))

(((e))) (b) Load/unload.

((<del>(d)</del>)) (c) Service.

(((e))) (d) Reserved.

(((f))) (e) Reserved (bagged) meters.

 $((\frac{g}{g}))$  (f) Specially signed areas.

(((h) Housing-areas:))

- (3) Metered spaces: Parking meters are in effect during the times posted on each meter. During these times the meter must be paid the posted amount. Additional time cannot be purchased beyond the meter's posted time limit (e.g., a twohour meter will allow a maximum of two hours to be purchased at one time).
- (4) Special conditions: The parking regulations are enforced every day, twenty-four hours a day. ((However, d))During certain times the following ((periods)) special conditions exist, and the regulations are modified.
- (a) ((During the following times, permits are not required in blue and gray zones:)) Crimson zones.
- (i) ((A)) Permits are not required in crimson zones at the start of each semester from the Monday of registration the week prior to the first day of class through the ((sixth)) fifth day of class.
- (ii) ((D)) Crimson, orange, and green permits are valid in crimson zones during summer session, vacation periods, and between semesters.

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- (iii) ((Đ)) <u>Temporary one-hour parking zones may be established in portions of the crimson zones during finals week and at the start of each semester to accommodate moving into and moving out of residence halls.</u>
  - (b) Gray zones.
- (i) Permits are not required in gray zones at the start of each semester from the Monday of the week prior to the first day of class through the fifth day of class, during vacation periods, and between semesters.
- (ii) During ((the)) summer session, gray zones are open to all valid WSU parking permits, except blue permits and housing permits.
- (iii) Temporary one-hour parking zones may be established in portions of the gray zones during finals week and at the start of each semester to accommodate moving into and moving out of residence halls.
- (c) <u>Blue zones</u>. <u>Permits are not required in blue zones at the start of each semester from the Monday of the week prior to the first day of class through the fifth day of class, during finals week, vacation periods, and between semesters.</u>
- (d) Housing areas. ((During the following times, housing p)) Permits are not required in housing areas:
- (i) A at the start of each semester from the Monday of ((registration)) the week prior to the first day of class through the ((sixth)) fifth day of class, and((-))
  - (((ii) D)) during finals week.
- (((d))) (e) Summer business hours. During the period when the university is officially on summer business hours, all metered spaces and permit areas which are not restricted will be open parking after 4:00 p.m. This period varies from year to year, and does not include periods when individual departments change their business hours outside the university's official summer business hours.
- (5) Pay parking facilities: Some <u>nonmetered</u> areas are provided for ((<del>limited</del>)) parking on an ((eash)) <u>hourly</u> basis. Hours of operation and a schedule of fees are posted at the facility entrance and at the point of payment. Parking violations are issued to vehicles that are parked over the duration of time that was paid <u>and for nonpayment</u>.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 95-13-003, filed 6/8/95, effective 7/9/95)

WAC 504-15-460 False information. No person shall obtain, attempt to obtain, or use in a manner contrary to these regulations, a modified ((or counterfeit)) parking permit or a permit issued upon false information. A violation of this section includes giving a false name, address, Social Security number, and/or other information known to be false. It also includes the mere use of a visitor, conference, and commercial permit by staff or students. Violation of this provision shall constitute the illegal use of a parking permit, and will be subject to citation and fine.

AMENDATORY SECTION (Amending WSR 95-13-003, filed 6/8/95, effective 7/9/95)

#### WAC 504-15-540 Zone permits—Availability and

use. The management and assignment of parking zones is designed to provide a reliable parking space to permit holders. However, uncontrolled access to parking areas and unexpected parking demand make it impossible to guarantee a parking space in a permit holder's assigned zone. Every effort will be made via surveys and limits on permit sales, to ensure that permit holders are not displaced from their assigned zones. The only exception to this will be that the sale of blue permits will not be limited.

Staff and students are generally assigned to specific parking areas, called zones. Parking zones are color-coded with respect to their price and numbered with respect to the specific parking area assignment of each permit holder. Permit holders may park in their assigned zone as reflected by the combination of color and number on their permit and corresponding sign, or they may park in other zones as described below.

- (1) Orange permits: Orange permit holders may park in their numerically assigned orange zone, or in any green, yellow, red, or blue zone. These permits may be available on a temporary basis during the summer session.
- (2) Green permits: Green permit holders may park in their numerically assigned green zone, or in any yellow, red, or blue zone. These permits may be available on a temporary basis during the summer session.
- (3) Yellow permits: Yellow permit holders may park in their numerically assigned yellow zone, or in any red or blue zone. These permits may be available on a temporary basis.
- (4) Red permits: Red permit holders may park in their numerically assigned red zone or in any blue zone. These permits may be available on a temporary basis.
- (5) Gray permits (((resident-priority parking))): Gray permit holders may park in their numerically assigned gray zone, or in any blue zone. These permits may be available on a temporary basis. Gray permit holders must turn in their gray permit for refund or credit toward another permit, if applicable, immediately upon moving out of a residence hall. Only resident students are eligible for gray permits.
- (6) Blue permits (peripheral parking): Blue permit holders may park in any blue zone. These permits are available on a temporary basis.
- (7) Crimson permits. Crimson permit holders may park in their numerically assigned crimson zone, or in the numerically corresponding gray zone (e.g., a crimson 1 permit is valid in the gray 1 zone, but not in the gray 2 zone), or in any blue zone. Crimson permit holders must turn in their crimson permit for a refund or credit toward another permit, if applicable, immediately upon moving out of the residence hall. Only resident students are eligible for crimson permits.

AMENDATORY SECTION (Amending WSR 95-13-003, filed 6/8/95, effective 7/9/95)

WAC 504-15-580 Special indicator decals/hangers. Special indicator decals or hangers may be issued to staff and

student permit holders who have otherwise valid parking permits in the following cases:

- (1) Service indicator decals/hangers which are valid for a maximum of fifteen minutes in a marked service zone. A separate mall service indicator allows a maximum of fifteenminute parking in the pedestrian mall. These are available to staff or students who must use a private vehicle for university business. They are issued on an annual or daily basis after the approval of the parking manager or his/her designee.
- (2) Night parking indicator decals/hangers which are valid in parking zones up to thirty minutes after the permit times begin, and thirty minutes before the permit times end. For example, if permits are required in a parking zone from 7:00 a.m. to 5:00 p.m., the night parking indicator is valid in that zone from 4:30 p.m. until 7:30 a.m. Night parking indicators are not valid at any time in <u>crimson zones</u>, gray zones, meter spaces, restricted spaces, or parking zones that require a parking permit at all times.
- (3) Reserved parking indicator decals/hangers which are valid in parking spaces that are signed for the corresponding permit and indicator.

AMENDATORY SECTION (Amending WSR 95-13-003, filed 6/8/95, effective 7/9/95)

WAC 504-15-600 Disability permits. The university and parking services strongly supports the provision of disability parking spaces at a reasonable proximity to campus buildings for people of disability.

There are two types of disability permits:

- (1) Permanent physical disability. An annual disability permit is available to permanently disabled university employees and students at the established fee. Holders of annual permits may park in orange, green, yellow, red, <u>crimson</u>, gray, and blue zones, and metered spaces. They may not park in service zones or reserved spaces. The fee for an annual disability permit is equal to the blue zone fee. Payment of regular posted fees is required in pay lots.
- (2) Temporary physical disability. Temporary disability permits will be issued to temporarily disabled staff and students for a maximum of six weeks, although they may be renewed.

Employees and students must obtain a temporary disability form from parking services. These disabled parking privileges will be granted only after submission of the form that shows the applicant meets established physical limitations. The form must be completed by a health care provider. Parking services will not accept substitute forms or letters.

AMENDATORY SECTION (Amending WSR 01-13-102, filed 6/20/01, effective 7/21/01)

WAC 504-15-650 Permit fees. (1) Schedules for parking fees, parking administrative fees, parking fines and sanctions, meter rates, prorate and refund schedules, and the effective date thereof will be submitted to the president or his/her designee and to the board of regents for approval by motion, provided, however, that fees associated with parking at the Student Recreational Center, (SRC) including refunds of fees, will not be submitted to the Board of Regents so long

as the Board has delegated authority to the president or his designee to approve all such fees. The schedules for all parking fees, parking administrative fees, meter rates, prorate and ((\{\frac{1}{2}}\))refund schedules\{\frac{1}{2}}\,, including those for the SRC, will thereafter be posted in the public area of the parking services office, and filed with the university rules coordinator, and posted on the parking services web site.

(((2) Disability permits will be issued free of charge to those who have their vehicle identified with a state disability license plate or other indicator in accordance with RCW 46.16.380.))

(((3))) (2) Payments: Fees may be paid at parking services by cash, check, or money order. A payroll deduction plan is available for permanent university employees and eligible graduate students during the fall semester only.

(((4)))(3) The annual fee for any shorter period relative to all permits shall be prorated.

(((5))) (4) The proper fee must be paid for all vehicles parked in metered areas unless otherwise authorized.

 $((\frac{(6)}{)})$  (5) Staff members whose work schedules qualify them for night time differential pay may purchase a permit for one-half the regular fee. Verification will be required.

(((7))) (6) Refunds: Annual permits being relinquished may be returned to parking services for a prorata refund. Identifiable remnants of the permit must be returned. Provision of the permit holder's copy of the permit receipt will facilitate the refund process. A minimum ten-dollar service charge will be retained by parking services. Further, the balance of any fees and fines owed parking services will be deducted from any refund due. ((No refunds will be granted after 5:00 p.m. Friday of the third week of the spring semester.)) Refunds for temporary permits will not be granted.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 95-13-003, filed 6/8/95, effective 7/9/95)

WAC 504-15-810 Violations, fines, and sanctions. (1) Violations and fines: Parking violations will be processed by the University. Fines must be paid at parking services ((in the public safety building,)) or other authorized locations((, at the following rates:)). Schedules for parking violations, fines, and sanctions are posted in the public area of the parking services office and on the parking services web site.

(( <del>(</del> t	\$	10.00	
<del>(b)</del>	Overtime in time zone	\$	<del>10.00</del>
<del>(c)</del>	No parking permit	\$	<del>25.00</del>
<del>(d)</del>	No parking permit for this area	<b>\$</b>	<del>20:00</del>
<del>(e)</del>	No parking zone	<del>\$</del>	<del>20:00</del>
<del>(f)</del>	Improper display of permit/indicator	<b>\$</b>	<del>5.00</del>
<del>(g)</del>	Blocking traffic	<b>\$</b>	<del>25.00</del>
<del>(h)</del>	Unauthorized parking in a disability space	\$	<del>50.00</del>
<del>(i)</del>	Parking in fire zone	<del>\$</del>	<del>50.00</del>
<del>(j)</del>	Unauthorized parking in reserved area	\$	40.00
<del>(k)</del>	Illegal use of permit	\$	<del>65.00</del>

(l) Display of lost or stolen permit	<b>\$</b> :	<del>200.00</del>
(m) Wheel lock fee	\$	<del>50.00</del>
(n) Unauthorized/overtime parking		
<del>in service space</del>	\$	<del>25.00</del>
(o) Unauthorized/overtime parking on		
the pedestrian mall	\$	50.00
(p) Overtime/nonpayment in a pay lot	\$	10.00
(g) All other parking violations	\$ 2	<del>20.00</del> ))

- (2) Reduction of fines: Fines for violations in subsection (1)(a) and (b) of this section paid within twenty-four hours will be reduced by one-half. Eligible violations received on Friday or Saturday can be paid on the following Monday to satisfy the twenty-four hour requirement. Mailed fines must be postmarked within twenty-four hours to receive the one-half reduction. If a permit holder of record neglects to display his/her permit and receives a notice of violation for No parking permit, (subsection (1)(c) of this section), that fine will be reduced to five dollars when possession of a valid parking permit for the location is verified by the parking services within twenty-four hours.
- (3) Visitors: The first violation of the notices listed in subsection (1)(c) of this section, No parking permit, and subsection (1)(d) of this section, No parking permit for this area, issued to visitors are considered warning notices upon presentation to the parking services office.
- (4) Inoperable vehicles: It is the owner's responsibility to immediately contact parking services in the event that their vehicle becomes inoperable.

AMENDATORY SECTION (Amending WSR 95-13-003, filed 6/8/95, effective 7/9/95)

WAC 504-15-830 Other violations and sanctions. (1) Schedules for parking violations, fines and sanctions are posted in the public area of the parking services office and on the parking services web site.

(((1))) (2) Late payment of fines: Forty-five days after issuance of a notice of violation a ((ten-dollar)) charge shall be added to all unpaid parking violations. If a student or staff member fails to pay the fine assessed for any violation, the fine will be referred to the WSU controller's office for collection. The controller may, if other collection efforts fail, deduct outstanding fines from the salary warrants of employees or withhold the amount of the outstanding fines from damage deposits or other funds held for any student in order to secure payment. Where collection efforts are unsuccessful, the controller may notify the registrar to refrain from issuing student transcripts or to withhold permission to reenroll for a subsequent term until outstanding fines are paid. The procedures discussed above are not exclusive, however, and failure by anyone to pay fines may lead to towing or use of the wheel lock device described in these regulations. Nor are the procedures discussed above a precondition to towing or use of the wheel lock.

(((2))) (3) Impound by wheel lock or towing:

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(a) Any vehicle with an accumulation of three or more unpaid parking violations, or any vehicle displaying a lost

- ((or)), stolen, or counterfeit permit may be temporarily immobilized by use of a wheel lock device placed on a wheel. A ((fifty dollar)) fee will be assessed on vehicles which are immobilized with a wheel lock.
- (b) Any vehicle may be towed away at owner's/operator's expense if the vehicle:
- (i) Has been immobilized by wheel lock more than twenty-four hours; or
  - (ii) Is illegally parked in a marked tow-away zone; or
- (iii) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or
  - (iv) Cannot be impounded with a wheel lock device; or
  - (v) Is illegally parked in a disability space.
- (c) The driver and/or owner of a towed vehicle shall pay towing and storage expenses.
- (d) Any vehicle immobilized by use of the wheel lock device in excess of twenty-four hours will be assessed a storage fee ((of ten dollars)) for each calendar day or portion thereof, beyond the first twenty-four hours.
- (e) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.
- (f) No vehicle impounded by towing or wheel lock devices, shall be released until the following fines are paid in cash:
- (i) All unpaid parking violation penalties against said vehicle and any other vehicle registered to the violator;
  - (ii) A ((fifty-dollar)) wheel lock fee;
  - (iii) All towing and storage fees.
- (g) Any vehicle impounded pursuant to these regulations in excess of thirty calendar days shall be considered an abandoned vehicle and shall be disposed of in accordance with chapter 46.55 RCW.
- (h) A person wishing to challenge the validity of any fines or fees imposed under this subsection may appeal such fines or fees as elsewhere provided in these regulations. However, in order to secure release of the vehicle, such person must pay the amount of such fines or fees as a bond which will be refunded to the extent the appeal is successful.
- (i) An accumulation of six unpaid violations during any twelve-month period, exclusive of meter violations, and overtime in time zone violations, will subject the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.
- (((3))) (4) Failure to pay fines: Failure to pay a fine or comply with other penalties assessed pursuant to these regulations, after exhausting or failing to exercise appeals provided for in these regulations, constitutes a violation of RCW 28B.10.560. A citation or complaint for such violation may be issued and filed with the district court. Upon request of the university, the department of licensing may withhold vehicle registration pending the payment of outstanding parking fines.

#### REPEALER

The following section of the Washington State Administrative Code is repealed:

WAC 504-15-060

Advisory and governing bodies.

## WSR 02-11-093 PROPOSED RULES WASHINGTON STATE UNIVERSITY

[Filed May 17, 2002, 1:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-06-094.

Title of Rule: Standards of conduct for students.

Purpose: To clarify requirements for student conduct, to streamline the hearing and disciplinary process and provide for parental notification under FERPA rules.

Statutory Authority for Adoption: RCW 28B.30.150.

Summary: Clarifies requirements for student conduct, streamlines hearing and disciplinary process and provides for parental notification under FERPA rules.

Reasons Supporting Proposal: To clarify requirements for student conduct, to streamline the hearing and disciplinary process and provide for parental notification under FERPA rules.

Name of Agency Personnel Responsible for Drafting: Dr. Charlene Jaeger, Dr. Elaine Voss, Lighty Student Services Building, Room 360, (509) 335-4531; Implementation and Enforcement: Dr. Charlene Jaeger, Lighty Student Services Building, Room 360, (509) 335-4531.

Name of Proponent: Office of Student Affairs, Washington State University.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Clarifies requirements for student conduct, to streamline the hearing and disciplinary process and provides for parental notification under FERPA rules.

Proposal Changes the Following Existing Rules: Clarifies requirements for student conduct, streamlines the hearing and disciplinary process and provides for parental notification under FERPA rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Conference Room 405, Lighty Student Services Building, Washington State University, Pullman, Washington 99164, on July 10, 2002, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Kirsten Pauli by July 5, 2002.

Submit Written Comments to: Loretta M. Lamb, P.O. Box 64105, Pullman, WA 99164, fax (509) 335-4642, by June 21, 2002.

Date of Intended Adoption: July 9, 2002.

May 13, 2002 Loretta M. Lamb Associate Vice-President for Personnel and Administration Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-12 issue of the Register.

## WSR 02-11-101 PROPOSED RULES DEPARTMENT OF ECOLOGY

[Order 02-03-Filed May 20, 2002, 11:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-05-054.

Title of Rule: Dangerous waste regulations, chapter 173-303 WAC.

Purpose: To adopt a conditional exclusion for controlled substances based on an emergency rule that was adopted on January 25, 2002, and to make technical corrections.

Statutory Authority for Adoption: Chapters 70.105 and 70.105D RCW.

Statute Being Implemented: Chapter 70.105 RCW.

Summary: A conditional exclusion is being proposed to allow controlled substances that are held as evidence by law enforcement agencies or that are managed by licensees and registrants of the state Board of Pharmacy or Drug Enforcement Administration to be destroyed in incinerators. Other changes are technical corrections.

Reasons Supporting Proposal: The existing regulations are a barrier to feasible management of these substances and there is a suitable alternative that will be allowed by this proposal.

Name of Agency Personnel Responsible for Drafting: Ty Thomas, Lacey, Washington, (360) 407-6758; Implementation and Enforcement: Greg Sorlie, Lacey, Washington, (360) 407-6702.

Name of Proponent: Department of Ecology, governmental.

Rule is necessary because of federal law, 40 C.F.R. 266.205 (d) and (e).

Explanation of Rule, its Purpose, and Anticipated Effects: The dangerous waste regulations set forth the requirements for determining if solid wastes are dangerous wastes, establish a system for tracking dangerous waste from generation to treatment or disposal, and establish requirements for facilities that manage dangerous waste so that all dangerous wastes are managed safely and responsibly in Washington state. The regulations also exempt a variety of wastes which can be managed safely and appropriately in a manner other than that required for most wastes.

Proposal Changes the Following Existing Rules: Law enforcement agencies within the state of Washington confiscate drugs, including controlled substances, during the course of their work. The controlled substances are kept as evidence

until the case is adjudicated. When no longer needed as evidence, law enforcement agencies follow their own policies for the destruction of the controlled substances. These policies include incineration, witnessed by a law enforcement officer. There is only one waste-to-energy facility in Washington that is currently able to take these wastes; however its permit prohibits the burning of dangerous waste. Some controlled substances designate as state-only dangerous wastes in the state of Washington. This conditional exclusion will make it possible for these wastes to be disposed of at the waste to energy facility.

Controlled substances collected by law enforcement agencies within the state of Washington must be handled according to law enforcement policy to assure consistency in handling procedures. Deviations from the policy can put the law enforcement agency at risk for liability, loss of accreditation of their evidence rooms, and may impact case development. Law enforcement agencies have limited budgets for evidence disposal and varying disposal needs. The absence of the option for incinerating controlled substances is an impediment to a necessary element of police work.

This conditional exclusion from the dangerous waste regulations applies only to wastes that are regulated as state-only dangerous waste; that is, they are not also regulated under federal hazardous waste regulations. Ecology does not have the authority to exempt any drug that is a regulated waste under federal law from regulation. The drugs that are regulated as state-only dangerous waste are regulated primarily due to their toxicity. Incineration is an appropriate method of disposal for these low volume, low toxicity wastes.

An emergency rule was adopted on January 25, 2002, to exempt these wastes. A permanent rule is being proposed to conditionally exempt the same wastes covered by the emergency rule. In addition, the conditional exclusion is being expanded to include controlled substances held by facilities that are licensees or registrants of the State Board of Pharmacy (Board) or Drug Enforcement Administration (DEA). These facilities include hospitals, pharmacies, universities and reverse distributors. Expanding the rule to include these additional facilities will make it easier for them to comply with the regulations on the management and disposal of controlled substances implemented by the board and the DEA. It will provide them with an option that improves their ability to comply with other regulations.

Other proposed changes to the regulations include correcting citations and other typographical errors. During the recent authorization process that ecology underwent with the Environmental Protection Agency (EPA), several minor corrections were noted for consistency with the federal hazardous waste regulations. These changes add no new requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed exemption has no adverse impact on any business, large or small. While not changing the standard to which the relevant substances must be treated, it exempts the affected entities from several administrative requirements: (1) There is no need to obtain an EPA/state ID#; (2) there is no requirement to manifest and manage waste at a treatment, storage and disposal

facility as dangerous waste; (3) wastes can be disposed of in a facility that is not allowed to accept dangerous wastes. Thus, there is no cost increase imposed on any party.

RCW 34.05.328 applies to this rule adoption. It has been determined that the conditional exclusion would be considered a significant legislative rule. Thus, it is subject to the requirements of RCW 34.05.328 and those requirements are being followed, as appropriate.

Hearing Location: Washington Department of Ecology, 300 Desmond Drive, Lacey, WA 98502, on June 27, 2002, at 10:30 to 11:50 a.m.

Assistance for Persons with Disabilities: Contact Marnie Black by June 17, 2002, TDD (360) 407-6006, or (360) 407-6759.

Submit Written Comments to: Patricia Hervieux, pher461@ecy.wa.gov, P.O. Box 47600, Olympia, WA 98504-7600, fax (360) 407-6715, by 5 p.m., July 12, 2002. For questions, call (360) 407-6756.

Date of Intended Adoption: August 30, 2002.

May 14, 2002 Linda Hoffman Deputy Director

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. (1) Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 CFR Parts 260 through 280 and Part 124, are in reference to those rules as they existed on July 1, 1999. Copies of the appropriate referenced federal requirements are available upon request from the department.

- (2) The following sections and any cross-reference to these sections are not incorporated or adopted by reference because they are provisions that EPA cannot delegate to states:
  - (a) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.
- (b) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.
- (c) 40 CFR Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 ((except for 268.44(h))) (a) through (g).
- (d) 40 CFR Parts 270.1 (c)(1)(i); 270.3; 270.60(b); and 270.64.
- (e) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.
- (3) Where EPA's regulations are incorporated by reference:
  - (a) "Regional administrator" means "the department."
  - (b) "Administrator" means "director."
  - (c) "Director" means "department."
- (d) These substitutions should be made as appropriate. They should not be made where noted otherwise in this chapter. They should not be made where another EPA region is referred to, where a provision cannot be delegated to the

state, or where the director referred to is the director of another agency.

<u>AMENDATORY SECTION</u> (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

### WAC 173-303-070 Designation of dangerous waste. (1) Purpose and applicability.

- (a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.
- (b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not their solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that their waste is designated DW or EHW is subject to all applicable requirements of this chapter.
- (c) The requirements for the small quantity generator exemption are found in subsection (8) of this section.
- (2)(a) Once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:
- (i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and
- (ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of WAC 173-303-140 (2)(a), even if they no longer exhibit a characteristic at the point of land disposal; and
- (B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or
- (iii) If originally designated only through WAC 173-303-100, it does not meet any of the criteria of WAC 173-303-100.

Such solid waste will include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation run-off. Precipitation run-off will not be considered a dangerous waste if it can be shown that the run-off has not been contaminated with the dangerous waste, or that the run-off is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the run-off does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

- (b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.
- (c) Notwithstanding subsections (1) and (2) of this section and provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

- (i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR section 268.45; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or
- (ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.
  - (3) Designation procedures.
- (a) To determine whether or not a solid waste is designated as a dangerous waste a person must:
- (i) First, determine if the waste is a listed discarded chemical product, WAC 173-303-081;
- (ii) Second, determine if the waste is a listed dangerous waste source, WAC 173-303-082;
- (iii) Third, if the waste is not listed in WAC 173-303-081 or 173-303-082, or for the purposes of compliance with the federal land disposal restrictions as adopted by reference in WAC 173-303-140, determine if the waste exhibits any dangerous waste characteristics, WAC 173-303-090; and
- (iv) Fourth, if the waste is not listed in WAC 173-303-081 or 173-303-082, and does not exhibit a characteristic in WAC 173-303-090, determine if the waste meets any dangerous waste criteria, WAC 173-303-100.
- (b) A person must check each section, in the order set forth, until they determine whether the waste is designated as a dangerous waste. Once the waste is determined to be a dangerous waste, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW must comply with the requirements of WAC 173-303-072.

- (c) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person must either:
- (i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or
- (ii) Apply knowledge of the waste in light of the materials or the process used, when:
- (A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated properly; and
- (B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained on-site.
- (4) Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100. Such testing may be required if the department has reason to believe that the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that the waste is designated improperly (e.g., the waste has

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been designated DW but should actually be designated EHW). If a person, pursuant to the requirements of this subsection, determines that the waste is a dangerous waste or that its designation must be changed, then they are subject to the applicable requirements of this chapter 173-303 WAC. The department will base a requirement to test a waste on evidence that includes, but is not limited to:

- (a) Test information indicating that the person's waste may be DW or EHW;
- (b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;
- (c) Evidence that the persons' waste has historically been a DW or EHW;
- (d) Evidence or information about a person's manufacturing materials or processes which indicate that the wastes may be DW or EHW; or
- (e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for determining whether or not it designated and/or designated properly.
- (5) Additional designation required. A generator must manage dangerous waste under the most stringent management standards that apply. The following subsections describe how waste that has been designated as DW under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, or in the case of (c) of this subsection, under the lists, characteristics, or criteria, must be further designated under the dangerous waste criteria, WAC 173-303-100. This further designation under the criteria is necessary because it may change how the waste must be managed. Additional designation is required when:
- (a) The waste is designated as DW with a QEL of 220 pounds and the generator otherwise qualifies as a small quantity generator. In this case, a generator must determine if their DW is also designated as a toxic EHW, WAC 173-303-100, with a QEL of 2.2 pounds; or
- (b) The waste is designated as DW and the waste is to be discharged to a POTW operating under WAC 173-303-802(4) (Permits by rule). In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100; or
- (c) The waste is designated as a state-only DW and the waste is to be:
- (i) Burned for energy recovery, as used oil, under the provisions of WAC 173-303-515; or
- (ii) Land disposed within the state. In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100.
- (6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, they must use all the dangerous waste numbers which they know are assignable to the waste from the dangerous waste lists, characteristics, or criteria. For example, if the waste is ignitable and contains more than 5 mg/l leachable lead when tested for the toxicity characteristic, they must use the dangerous waste numbers of D001 and D008. This will not be construed as requiring a person to designate their waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

- (7) Quantity exclusion limits; aggregated waste quantities.
- (a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is subject to the full requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or meets the criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to the requirements described in subsection (8) of this section.
- (b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of dangerous waste. In such cases, they must consider the aggregate quantity of their wastes when determining whether or not their waste amounts exceed the specific limits for waste accumulation or the specific quantity exclusion limits (QEL) for waste generation. Waste quantities must be aggregated for all. wastes with common QEL's. Example: If a person generates 100 pounds of an ignitable waste and 130 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (230 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates one pound of a toxic EHW and 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QEL's). (Note: In order to remain a small quantity generator, the total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, must not equal or exceed 220 pounds. Not more than 2.2 pounds of a waste with a 2.2 pound QEL may be part of that total.)
- (c) When making the quantity determinations of this subsection and WAC 173-303-170 through 173-303-230, generators must include all dangerous wastes they generate, except dangerous waste that:
- (i) Is exempt from regulation under WAC 173-303-071; or
- (ii) Is recycled under WAC 173-303-120 (2)(a), (3)(c), (e), or (h); or
- (iii) Is managed immediately upon generation only in onsite elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in WAC 173-303-040; or
- (iv) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under WAC 173-303-120 (4)(a); or
- (v) Is spent lead-acid batteries managed under the requirements of WAC 173-303-120 (3)(f) and 173-303-520; or
- (vi) Is universal waste managed under WAC 173-303-077 and 173-303-573.
- (d) In determining the quantity of dangerous waste generated, a generator need not include:
- (i) Dangerous waste when it is removed from on-site storage; or
  - (ii) Reserve; or

- (iii) Spent materials that are generated, reclaimed, and subsequently reused on-site, as long as such spent materials have been counted once (Note: If after treatment or reclamation a residue is generated with a different waste code(s), that residue must be counted); or
- (iv) The container holding/containing the dangerous waste as described under WAC 173-303-160(1).
  - (8) Small quantity generators.
- (a) A person is a small quantity generator and subject to the requirements of this subsection if:
- (i) Their waste is dangerous waste under subsection (3) of this section, and the quantity of waste generated per month (or the aggregated quantity if more than one kind of waste is generated) does not equal or exceed the quantity exclusion limit (QEL) for such waste (or wastes) as described in WAC 173-303-070(7); and
- (ii) The quantity accumulated or stored does not exceed 2200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(iv) and 173-303-082 (2)(b) is 220 lbs); and
- (iii) The total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, does not equal or exceed 220 pounds. If a person generates any dangerous wastes that exceed the QEL or accumulates or stores waste that exceeds the accumulation limits, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. A small quantity generator who generates in excess of the quantity exclusion limits or, accumulates, or stores waste in excess of the accumulation limits becomes subject to the full requirements of this chapter and cannot again be a small quantity generator until after all dangerous waste on-site at the time he or she became fully regulated have been removed, treated, or disposed.
- Example. If a person generates four pounds of an acute hazardous waste discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste.

(Comment: If a generator generates acute hazardous waste in a calendar month in quantities greater than the QELs, all quantities of that acute hazardous waste are subject to full regulation under this chapter. "Full regulation" means the regulations applicable to generators of greater than 2200 pounds of dangerous wastes in a calendar month.)

- (b) Small quantity generators will not be subject to the requirements of this chapter if they:
- (i) Designate their waste in accordance with WAC 173-303-070; and
- (ii) Manage their waste in a way that does not pose a potential threat to human health or the environment; and
- (iii) Either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the United States, is:
- (A) Permittéd (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

- (B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;
- (C) Permitted to manage moderate-risk waste under chapter 173-304 WAC (Minimum functional standards for solid waste handling), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;
- (D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;
- (E) Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 CFR Part 258 or chapter 173-351 WAC;
- (F) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 through 257.30;
- (G) A publicly owned treatment works (POTW): Provided, That small quantity generator(s) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a); or
- (H) For universal waste managed under WAC 173-303-573, a universal waste handler or destination facility subject to the requirements of WAC 173-303-573; and
- (iv) Submit an annual report in accordance with WAC 173-303-220 if they have obtained an EPA/state identification number pursuant to WAC 173-303-060.
- (c) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also regulated if it is destined to be burned for energy recovery.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

- (2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter must comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.
- (3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

- (a)(i) Domestic sewage; and
- (ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment provided:
- (A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;
- (B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;
- (C) The waste discharge is not prohibited under 40 CFR Part 403.5; and
- (D) The waste prior to mixing with domestic sewage must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and must not meet the dangerous waste criteria for toxic dangerous waste or persistent dangerous waste under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;
- (b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);
- (c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes that are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refusederived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste will not be deemed to be treating, storing, disposing of, or otherwise managing dangerous wastes for the purposes of regulation under this chapter, if such facility:
  - (i) Receives and burns only:
- (A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and
- (B) Solid waste from commercial or industrial sources that does not contain dangerous waste; and
- (ii) Such facility does not accept dangerous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that dangerous wastes are not received at or burned in such facility;

- (d) Agricultural crops and animal manures which are returned to the soil as fertilizers;
- (e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials that have been used for structural and construction purposes (e.g., roads, dikes, paving) that were produced from mixtures of oil and sand, gravel, ash or similar substances;
- (f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;
  - (g) Treated wood waste and wood products including:
- (i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only), or which fails any state criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' intended end use.
- (ii) Wood treated with other preservatives provided such treated wood is, within one hundred eighty days after becoming waste:
- (A) Disposed of at a landfill that is permitted in accordance with WAC 173-304-460, minimum functional standards for solid waste handling, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or
- (B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or
- (C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through WAC 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood
  - (h) Irrigation return flows;
  - (i) Reserve;
  - (j) Mining overburden returned to the mining site;
  - (k) Polychlorinated biphenyl (PCB) wastes:
- (i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60 (Toxic Substances Control Act) and that are dangerous either because:
- (A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or
- (B) Because they are designated only by this chapter and not designated by 40 CFR Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 CFR Part 266;
- (ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 CFR Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

- (l) Samples:
- (i) Except as provided in (l)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:
- (A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or
- (B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector;
- (C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).
- (ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:
- (A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or
- (B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:
- (I) Assure that the following information accompanies the sample:
- (AA) The sample collector's name, mailing address, and telephone number;
- (BB) The laboratory's name, mailing address, and telephone number;
  - (CC) The quantity of the sample;
  - (DD) The date of shipment;
  - (EE) A description of the sample; and
- (II) Package the sample so that it does not leak, spill, or vaporize from its packaging.
- (iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection:
  - (m) Reserve;
- (n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;
- (o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);
- (p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(vii) and (viii).

These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

- (q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:
- (i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
- (ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
- (iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;
- (iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and
- (v) A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.
  - (r) Treatability study samples.
- (i) Except as provided in (r)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:
- (A) The sample is being collected and prepared for transportation by the generator or sample collector; or
- (B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
- (C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or
- (D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.
- (ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:
- (A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and
- (B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste; and
- (C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

- (I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or
- (II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:
- (AA) The name, mailing address, and telephone number of the originator of the sample;
- (BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;
  - (CC) The quantity of the sample;
  - (DD) The date of shipment; and
- (EE) A description of the sample, including its dangerous waste number.
- (D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and
- (E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
  - (I) Copies of the shipping documents;
- (II) A copy of the contract with the facility conducting the treatability study;
  - (III) Documentation showing:
- (AA) The amount of waste shipped under this exemption;
- (BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste:
  - (CC) The date the shipment was made; and
- (DD) Whether or not unused samples and residues were returned to the generator.
- (F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.
- (iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute dangerous waste, 1 kg of acute hazardous waste, and 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 CFR Part 261, to conduct further treatability study evaluation:
- (A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:

There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

- (C) The additional quantities and time frames allowed in (r)(iii)(A) and (B) of this subsection are subject to all the provisions in (r)(i) and (r)(ii)(C) through (F) of this subsection. The generator or sample collector must apply to the department where the sample is collected and provide in writing the following information:
- (I) The reason the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
- (II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
- (III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;
- (IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
- (V) Such other information that the department considers necessary.
- (s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.
- (i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.
- (ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.
- (iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg

- of other "as received" dangerous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.
- (iv) The quantity of "as received" dangerous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.
- (v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
- (vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.
- (vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
- (A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;
  - (B) The date the shipment was received;
  - (C) The quantity of waste accepted;
- (D) The quantity of "as received" waste in storage each day;
- (E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
  - (F) The date the treatability study was concluded;
- (G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.
- (viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- (ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

- (A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;
- (B) The types (by process) of treatability studies conducted;
- (C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);
  - (D) The total quantity of waste in storage each day;
- (E) The quantity and types of waste subjected to treatability studies;
  - (F) When each treatability study was conducted;
- (G) The final disposition of residues and unused sample from each treatability study.
- (x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.
- (xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.
- (xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.
- (xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

- (t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 CFR Part 280.
- (u) Special incinerator ash (as defined in WAC 173-303-040).
- (v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.
- (w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and
- (ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

- (iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (w)(i) and (ii) of this subsection, so long as they meet all of the following conditions:
- (A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;
- (B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or ground water or both;
- (C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
- (D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W which is incorporated by reference at WAC 173-303-400 (3)(a), regardless of whether the plant generates a total of less than 220 pounds/month of dangerous waste; and
- (E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.
  - (F) Additional reports.
- (I) Upon determination by the department that the storage of wood preserving wastewaters and spent wood preserving solutions in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store wood preserving wastewaters and spent wood preserving solutions. This authority applies to tanks and secondary containment systems used to store wood preserving wastewaters and spent wood preserving solutions in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of wood preserving wastewaters and spent wood preserving solutions or the generation of hazardous by-products. Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.
- (II) When required by the department, a qualified, independent professional engineer registered to practice in Wash-

ington state must perform the assessment of the integrity of tanks or secondary containment systems.

- (III) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (w)(iii)(F)(I) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the wood preserving wastewaters and spent wood preserving solutions until such repairs or improvements are completed and approved by the department.
- (x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- (y) Used oil filters that are recycled in accordance with WAC 173-303-120, as used oil and scrap metal.
- (z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- (aa) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:
- (i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and
- (ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
- (iii) The waste is typically and frequently managed in nonoxidizing environments.
- (bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all

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Constituent Maximum for any single composite sample-TCLP (mg/l)

Generic exclusion levels for K061 and K062 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
(2)Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

# Generic exclusion levels for F006 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

(cc)(i) Oil-bearing hazardous secondary materials (that is, sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (that is, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph: Provided, That the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in (cc)(ii) of this subsection, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (that is, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under WAC 173-303-081 and 173-303-082, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in (cc)(i) of this subsection. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in WAC 173-303-081 and 173-303-082; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in WAC 173-303-040.

(dd) Dangerous waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are dangerous only because they exhibit the Toxicity Characteristic (TC) specified in WAC 173-303-090(8) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

- (ee) Biological treatment sludge from the treatment of one of the following wastes listed in WAC 173-303-9904 organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K157) unless it exhibits one or more of the characteristics or criteria of dangerous waste.
- (ff) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- (gg) Shredded circuit boards being recycled: Provided, That they are:
- (i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and
- (ii) Free of mercury switches, mercury relays and nickelcadmium batteries and lithium batteries.
- (hh) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided:
- (i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in WAC 173-303-090(5) and/or toxicity for benzene (WAC 173-303-090(8), waste code D018); and
- (ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process.

An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically colocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (that is, sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

- (ii) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in WAC 173-303-016(5).
- (jj) Catalyst inert support media separated from one of the following wastes listed in WAC 173-303-9904 Specific Sources - Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydrorefining catalyst (EPA Hazardous Waste No. K172). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria.
- (kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:
- (i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169,

- K170, K171, and K172 if these wastes had been generated after the effective date of the listing (February 8, 1999);
- (ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;
- (iii) The leachate or gas condensate does not exhibit any characteristic or criteria of dangerous waste nor is derived from any other listed hazardous waste;
- (iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.
- (v) After February 13, 2001, leachate or gas condensate will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.
- (II) Dredged material. Dredged material as defined in 40 CFR 232.2 that is subject to:
- (i) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344):
- (ii) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or
- (iii) In the case of a U.S. Army Corps of Engineers civil works project, the administrative equivalent of the permits referred to in (II)(i) and (ii) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 CFR 336.1, 336.2 and 337.3.
- (mm) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- (nn) Controlled substances that are state-only dangerous wastes. Controlled substances as defined and regulated by 21 CFR Parts 1300-1399 and chapter 69.50 RCW (Schedule I through V drugs) that are held in the custody of law enforcement agencies or possessed by any registrant or licensee as defined and regulated by 21 CFR Parts 1300-1399 and chapter 69.50 RCW and authorized to possess drugs within the state of Washington, and managed for destruction: Provided, That they are disposed of by incineration in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour and a combustion zone temperature greater than 1500 degrees Fahrenheit or disposed by other methods approved by ecology.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-100 Dangerous waste criteria. (1) Purpose. The purpose of this section is to describe methods for

determining if a solid waste is a dangerous waste by the criteria set forth in this section. The dangerous waste criteria consist of:

- (a) Toxic dangerous wastes; and
- (b) Persistent dangerous wastes.
- (2) References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is adopted by reference.
- (3) A person must use data which is available to him, and, when such data is inadequate for the purposes of this section, must refer to the NIOSH RTECS to determine:
- (a) Toxicity data or toxic category for each known constituent in the waste;
- (b) Whether or not each known constituent of the waste is a halogenated organic compound or a polycyclic aromatic hydrocarbon as defined in WAC 173-303-040.
- (4) Quantity exclusion limit. A solid waste is a dangerous waste if it meets one or more of the dangerous waste criteria described in subsections (5) and (6) of this section. If a person's solid waste meets one or more of these criteria then he or she is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of the waste exceeds the following quantity exclusion limits:
- (a) For toxic dangerous wastes designated as EHW (WT01), the quantity exclusion limit is 2.2 lbs. per month.
- (b) For all other wastes designating under this section the quantity exclusion limit is 220 lbs. (100 kg) per month or per batch.
- (5) Toxicity criteria. Except as provided in WAC 173-303-070 (4) or (5), a person must determine if a solid waste meets the toxicity criteria under this section by following either the instructions for book designation, when his knowledge of the waste is sufficient, or by testing the waste using the biological testing methods adopted under WAC 173-303-110(3).
- (a) Except as provided in WAC 173-303-070(4), if a person knows only some of the toxic constituents in the waste or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for toxicity under this subsection.
- (b) Book designation procedure. A person may determine if a waste meets the toxicity criteria by following the book designation instructions as follows:
- (i) A person must determine the toxic category for each known constituent. The toxic category for each constituent may be determined from available data, or by obtaining data from the NIOSH RTECS and checking this data against the toxic category table, below. If data is available for more than one of the toxicity criteria (fish, oral, inhalation, or dermal), then the data indicating severest toxicity must be used, and the most acutely toxic category must be assigned to the constituent. If the NIOSH RTECS or other data sources do not agree on the same category, then the category arrived at using the NIOSH RTECS will be used to determine the toxic category. If toxicity data for a constituent cannot be found in the NIOSH RTECS, or other source reasonably available to a

person, then the toxic category need not be determined for that constituent.

#### TOXIC CATEGORY TABLE

Toxic Category	Fish LC <sub>50</sub> (mg/L)*	Oral (Rat) LD <sub>50</sub> (mg/kg)	Inhalation (Rat) LC <sub>50</sub> (mg/L)	Dermal (Rabbit) LD <sub>50</sub> (mg/kg)
X	<0.01	<.5	<.02	< 2
Α	0.01 - < 0.1	.5 - <5	.02 - <.2	2 - <20
В	0.1 - <1	5 - <50	.2 - <2	20 - <200
С	1 - < 10	50 - <500	2 - <20	200 - <2000
D	10 - 100	500 - 5000	20 - 200	2000 - 20,000

\* The LC<sub>50</sub> data must be from an exposure period greater than or equal to twenty-four hours. LC<sub>50</sub> data from any species is acceptable, however, if salmonid LC<sub>50</sub> data is available it will supersede all other fish data. If salmonid data is unavailable but fathead minnow data is available, it will supersede all other fish species data.

Note: "Inhalation LC<sub>50</sub>" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for four hours or less, kills within fourteen days half of a group of ten rats each weighing between 200 and 300 grams.

(ii) A person whose waste contains one or more toxic constituents must determine the equivalent concentration for the waste from the following formula:

Equivalent 
$$\sum X\% + \sum A\% + \sum B\% + \sum C\% + \sum D\%$$
  
Concentration (%)= 1 10 100 1000 10,000

where  $\Sigma(X,A,B,C, \text{ or } D)\%$  is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (A Category) - .01%; Endrin (A Category) - 1%; Benzene (D Category) - 4%; Phenol (C Category) - 2%; Dinoseb (B Category) - 5%; Water (nontoxic) - 87%. The equivalent concentration (E.C.) would be:

E.C. (%) = 
$$\frac{0\%}{1}$$
 +  $\frac{(0.01\% + 1.0\%)}{100}$  +  $\frac{5.0\%}{100}$  +  $\frac{2.0\%}{1000}$  +  $\frac{4.0\%}{10,000}$   
=  $0\% + 0.101\% + 0.05\% + 0.002\% + 0.0004\% = 0.1534\%$ 

So the equivalent concentration equals 0.1534%.

- (iii) A person whose waste contains toxic constituents must determine its designation according to the value of the equivalent concentration:
- (A) If the equivalent concentration is less than 0.001%, the waste is not a toxic dangerous waste; or
- (B) If the equivalent concentration is equal to or greater than 0.001% and less than 1.0%, the person will designate the waste as DW and assign the dangerous waste number WT02; and
- (C) If the equivalent concentration is equal to or less than 0.01%, the DW may also be a special waste; or
- (D) If the equivalent concentration is equal to or greater than 1.0%, the person will designate the waste as EHW and assign the dangerous waste number WT01.

Example 1. Continued. The equivalent concentration of 0.1534% (from Example 1. above) is greater than 0.001% and less than 1.0%. The waste is DW and the dangerous

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waste number WT02 must be assigned. Since 0.1534% is also greater than 0.01%, the waste is not a special waste.

- (iv) Reserve.
- (c) Designation from bioassay data. A person may determine if a waste meets the toxicity criteria by following the bioassay designation instructions of either:
- (i) The DW bioassay. To determine if a waste is DW, a person must establish the toxicity category range (D category toxicity or greater toxicity) of a waste by means of the 100 mg/L acute static fish test or the 5000 mg/kg oral rat test, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). If data from the test indicates that the waste is DW, then the person will assign the dangerous waste number WT02. Otherwise, the waste is not regulated as toxic dangerous waste. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to determine whether the waste is EHW, or in the case of state-only solid dangerous waste, if the person chooses to determine whether the waste is special waste; or
- (ii) The EHW and special waste bioassay. To determine if a waste is EHW, a person must establish the toxicity category range of a waste by means of the fish bioassay at 10 mg/L or the rat bioassay at 50 mg/Kg, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). (NOTE: A fish bioassay at 1 mg/L corresponds with the definition of EHW, which includes toxic categories X-B. However, the fish bioassay is not reproducible at these low levels.) If data from the test indicates that the waste is EHW, then the person will assign the dangerous waste number WT01. Otherwise, the waste will be designated DW, and the person will assign the dangerous waste number WT02. A person with state-only solid waste may choose to test a waste to determine if it is special waste. Testing levels for special waste must be at 10 mg/L for the fish bioassay or 500 mg/Kg for the oral rat bioassay. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to test the waste in accordance with WAC 173-303-100 (5)(c)(i) to determine if the waste is not regulated as toxic dangerous waste.
- (d) If the designation acquired from book designation and bioassay data do not agree, then bioassay data will be used to designate a waste. If a waste is designated as DW or EHW following the book designation procedure, a person may test the waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3), using either the static acute fish or the acute oral rat method, to demonstrate that the waste is not a dangerous waste or should be designated as DW and not EHW.
- (e) A waste designated as DW by toxicity criteria must be assigned the dangerous waste number of WT02. A waste designated as EHW by toxicity criteria must be assigned the dangerous waste number of WT01.
- (6) Persistence criteria. For the purposes of this section, persistent constituents are chemical compounds which are either halogenated organic compounds (HOC), or polycyclic aromatic hydrocarbons (PAH), as defined under WAC 173-303-040. Except as provided in WAC 173-303-070 (4) or (5), a person may determine the identity and concentration of per-

- sistent constituents by either applying knowledge of the waste or by testing the waste according to WAC 173-303-110 (3)(c) Chemical Testing Methods for Designating Dangerous Waste, February 1998.
- (a) Except as provided in WAC 173-303-070(4), if a person knows only some of the persistent constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for persistence under this subsection.
- (b) When a waste contains one or more halogenated organic compounds (HOC) for which the concentrations are known, the total halogenated organic compound concentration must be determined by summing the concentration percentages for all of the halogenated organic compounds for which the concentration is known.

Example 2. A waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .020%. The total halogenated organic compound concentration would be:

Total HOC Concentration (%) = .009% + .012% + .020% = .041%

(c) A person whose waste contains polycyclic aromatic hydrocarbons (PAH) as defined in WAC 173-303-040, must determine the total PAH concentration by summing the concentration percentages of each of the polycyclic aromatic hydrocarbons for which they know the concentration.

Example 3. A person's waste contains: Chrysene - .08%; 3,4 - benzo(a)pyrene - 1.22%. The total polycyclic aromatic hydrocarbon concentration would be:

Total PAH Concentration (%) = .08% + 1.22% = 1.30%

(d) A person whose waste contains halogenated organic compounds and/or polycyclic aromatic hydrocarbons must determine its designation from the persistent dangerous waste table ((or persistent dangerous waste criteria graph WAC 173-303-9907)).

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains	At a total concentration level of	Then your waste's designation, and waste # are
Halogenated Organic Compounds (HOC)	0.01% to 1.0% greater than 1.0%	DW, WP02 EHW, WP01
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*, WP03

<sup>\*</sup>No DW concentration level for PAH.

(7) Reserve.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-110 Sampling and testing methods. (1)

Purpose. This section sets forth the testing methods to be used to comply with the requirements of this chapter. Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation. All methods and publications listed in this section are incorporated by reference.

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- (2) Representative samples.
- (a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:
- (i) Crushed or powdered material ASTM Standard D346-75;
- (ii) Extremely viscous liquid ASTM Standard D140-70:
  - (iii) Fly ash-like material ASTM Standard D2234-86;
- (iv) Soil-like material ASTM Standard D1452-80 (Reapproved 1990);
- (v) Soil or rock-like material ASTM Standard D420-93;
- (vi) Containerized liquid wastes "COLIWASA" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a), or the equivalent representative sampling method known as the plunger type sampler, described in ASTM D 5743-97, section 8.6; and,
- (vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs "Pond Sampler" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a).
- (b) Copies of these representative sampling methods are available from the department except for the ASTM standards and the AC & D Liquid Sampler Method which can be obtained by writing to:

ASTM 1916 Race Street Philadelphia, PA 19103.

AC & D Liquid Sampler Method

AC & D Liquid Samplers 77 Symons Street Richland, WA 99352

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained by writing to the appropriate address below:

For copies of Department of Ecology test methods:

Attn: Test Procedures Hazardous Waste Section Department of Ecology PO Box 47600 Olympia, Washington 98504-7600

For copies of SW 846, including updates, and 40 CFR Part 261:

Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402 (202) 512-1800

For copies of ASTM methods:

ASTM 1916 Race Street Philadelphia, PA 19103 For copies of APTI methods:

APTI

National Technical Information Service 5285 Port Royal Road Springfield, VA 22161

The document titles and included test procedures are as follows:

- (a) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846 (Third Edition (November 1986) as amended by Updates I (dated July 1992), II (dated September 1994), IIA (dated August 1993), IIB (dated January 1995), III (dated December 1996), and IIIA (dated April 1998)). The Third Edition of SW-846 and its Updates (document number 955-001-00000-1) are available from the Superintendent of Documents. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 401 M Street, SW, Washington, D.C. 20460. Copies of the Third Edition and all of its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847;
- (b) Biological Testing Methods, Department of Ecology Publication #80-12, the latest revision, describing procedures for:
  - (i) Static acute fish toxicity test; and
  - (ii) Acute oral rat toxicity test;
- (c) Chemical Testing Methods for Designating Dangerous Waste, Department of Ecology Publication #97-407, February 1998 describing methods for testing:
  - (i) Ignitability;
  - (ii) Corrosivity;
  - (iii) Reactivity;
  - (iv) Toxicity characteristic leaching procedure;
  - (v) Halogenated organic compounds; and
  - (vi) Polycyclic aromatic hydrocarbons.
  - (d) Reserve;
- (e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and
- (ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D 4059-86.
- (f) 40 CFR Part 261 Appendix III Chemical Analysis Test Methods, which refers to appropriate analytical procedures to determine whether a sample contains a given toxic constituent in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846, and 40 CFR Part 261 Appendix II, which refers to Method 1311 Toxicity Characteristic Leaching Procedure.
- (g) The following publications for air emission standards.
- (i) ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography, ASTM Standard D 1946-82.

- (ii) ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), ASTM Standard D 2382-83.
- (iii) ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM Standard E 169-87.
- (iv) ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM Standard E 168-88.
- (v) ASTM Standard Practice for Packed Column Gas Chromatography, ASTM Standard E 260-85.
- (vi) ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography, ASTM Standard D 2267-88.
- (vii) ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by ((Isoteriscope)) Isoteniscope, ASTM Standard D 2879-((86)) 92.
- (viii) APTI Course 415: Control of Gaseous Emissions, EPA Publication EPA-450/2-81-005, December 1981.
- (ix) "API Publication 2517, Third Edition," February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.
- (x) "ASTM Standard Test Method for Vapor Pressure— Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteriscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.
  - (h) The following publications:
- (i) "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210.
- (ii) U.S. EPA, "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No. EPA-450/R-92-019, Environmental Protection Agency, Research Triangle Park, NC.
- (iii) "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E926-88, Test Method C-Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.
- (iv) Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry. Available from NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.
- (v) ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester, ASTM Standard D-3278-78, available from American Society for Testing and Materials.
- (vi) ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester, ASTM Standard D-93-79 or D-93-80.
- (vii) API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.
- (4) Substantial changes to the testing methods described above will be made only after the department has provided

- adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.
- (5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

# WAC 173-303-140 Land disposal restrictions. (1) Purpose.

- (a) The purpose of this section is to encourage the best management practices for dangerous wastes according to the priorities of RCW 70.105.150 which are, in order of priority:
  - (i) Reduction;
  - (ii) Recycling;
  - (iii) Physical, chemical, and biological treatment;
  - (iv) Incineration;
  - (v) Stabilization and solidification; and
  - (vi) Landfill.
- (b) This section identifies dangerous wastes that are restricted from land disposal, describes requirements for restricted wastes, and defines the circumstances under which a prohibited waste may continue to be land disposed.
- (c) For the purposes of this section, the term "landfill," as stated in the priorities of RCW 70.105.150, will be the same as the term "land disposal." Land disposal will be used in this section to identify the lowest waste management priority.
  - (2) Applicability.

The land disposal restrictions of this section apply to any person who owns or operates a dangerous waste treatment, storage, or disposal facility in Washington state and to any person who generates or transports dangerous waste.

- (a) Land disposal restrictions for wastes designated in accordance with WAC 173-303-070 (3)(a)(i), (ii), and (iii) are the restrictions set forth by the Environmental Protection Agency in 40 CFR Part 268 which are incorporated by reference into this regulation and the restrictions set forth in subsections (3) through (7) of this section. The words "regional administrator" (in 40 CFR) will mean the "department," except for 40 CFR Parts 268.5 and 268.6; 268 Subpart B; ((and)) 268.42(b) and 268.44(a) through (g). The authority for implementing these excluded CFR sections remains with the U.S. Environmental Protection Agency. The word "EPA" (in 40 CFR) means "Ecology" at 40 CFR 268.44(m). The exemption and exception provisions of subsections (3) through (7) of this section are not applicable to the federal land disposal restrictions.
- (b) Land disposal restrictions for state-only dangerous waste are the restrictions set forth in subsections (3) through (7) of this section.
  - (3) Definitions.

When used in this section the following terms have the meaning provided in this subsection. All other terms have the meanings given under WAC 173-303-040.

(a) "Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constitu-

ents which have caused a waste to be a dangerous waste under this chapter.

- (b) "Land disposal" means placement in a facility or on the land with the intent of leaving the dangerous waste at closure, and includes, but is not limited to, placement for disposal purposes in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground cave or mine; concrete vault or bunker.
- (c) "Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.
- (d) "Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity test of WAC 173-303-090 (6)(a)(iii).
- (e) "Stabilization" and "solidification" mean a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.
- (4) Land disposal restrictions and prohibitions. The land disposal requirements of this subsection apply to land disposal in Washington state.
- (a) Disposal of extremely hazardous waste (EHW). No person may land dispose of EHW, except as provided in subsection (5) of this section, at any land disposal facility in the state. No person may land dispose of EHW at the facility established under RCW 70.105.050, except as provided by subsections (5), (6), and (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.
- (b) Disposal of liquid waste. Special requirements for bulk and containerized liquids.
- (i) Effective May 8, 1985, the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. (40 CFR 264.314(a) which applies prior to May 8, 1985, is incorporated by reference.)
- (ii) Containers holding free liquids must not be placed in a landfill unless:
  - (A) All free-standing liquid:
  - (I) Has been removed by decanting, or other methods; or
- (II) Has been mixed with sorbent or stabilized (solidified) so that free-standing liquid is no longer observed; or
  - (III) Has been otherwise eliminated; or
  - (B) The container is very small, such as an ampule; or
- (C) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or
- (D) The container is a labpack and is disposed of in accordance with WAC 173-303-161 and this chapter.
- (iii) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following tests must be used: Method 9095 (Paint Filter Liquids Test)

- as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" EPA Publication SW-846 as incorporated by reference in WAC 173-303-110 (3)(a).
- (iv) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: Materials listed or described in (b)(iv)(A) of this subsection; materials that pass one of the tests in (b)(iv)(B) of this subsection; or materials that are determined by the department to be nonbiodegradable through WAC 173-303-910.
  - (A) Nonbiodegradable sorbents.
- (I) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or
- (II) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, crosslinked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or
  - (III) Mixtures of these nonbiodegradable materials.
  - (B) Tests for nonbiodegradable sorbents.
- (I) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a)-Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or
- (II) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b)-Standard Practice for Determining Resistance of Plastics to Bacteria; or
- (III) The sorbent material is determined to be nonbiodegradable under OECD (Organization for Economic Cooperation and Development) test 301B: [CO<sub>2</sub>Evolution (Modified Sturm Test)].
- (v) Effective November 8, 1985, the placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the department, or the department determines, that:
- (A) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and
- (B) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in 40 CFR Section 144.3.)
- (c) Disposal of solid acid waste. No person may land dispose solid acid waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful proper-

ties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

- (d) Disposal of organic/carbonaceous waste.
- (i) No person may land dispose organic/carbonaceous waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter. Organic/carbonaceous wastes must be incinerated as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section.
- (ii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to black mud generated from the caustic leach recovery of cryolite at primary aluminum smelting plants.
- (iii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to any person who certifies to the department that recycling, treatment and incineration facilities are not available within a radius of one thousand miles from Washington state's borders. Such certification must be sent to the department by certified mail and must include: The name, address and telephone number of the person certifying; a brief description of the organic/carbonaceous waste covered by the certification; a discussion of the efforts undertaken to identify available recycling, treatment and incineration facilities; and the signature of the person responsible for the certification and development of information used to support the certification. Records and information supporting the certification must be retained by the certifying person and must be made available to the department upon request.

A certification that has been properly submitted to the department will remain valid until the department determines that a recycling, treatment or incineration facility is available within a radius of one thousand miles from Washington state's borders and the person who submitted the certification is unable to demonstrate otherwise. A recycling, treatment or incineration facility will be considered by the department to be available if such facility: Is operating, and; can safely and legally recycle, treat or incinerate the organic/carbonaceous waste, and; has sufficient capacity to receive and handle significant amounts of the waste, and; agrees to accept the waste.

(5) Treatment in land disposal facilities. The land disposal restrictions in subsection (4) of this section do not apply to persons treating dangerous wastes in surface impoundments, waste piles, or land treatment facilities provided that such treatment is performed in accordance with the requirements of this subsection and this chapter.

(a) Surface impoundment treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in surface impoundments for purposes of treatment provided the owner/operator can demonstrate that effective treatment of the dangerous waste constituents will occur and at closure the owner/operator complies with the prohibitions and restrictions of subsection (4) of this section.

(b) Waste pile treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in waste piles for purposes of treatment provided the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur and that at closure the owner/operator will be in compliance with the prohibitions and restrictions of subsection (4) of this section.

#### (c) Land treatment.

Liquid waste, extremely hazardous waste (EHW), and organic/carbonaceous waste may be land treated provided that the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur, and at the end of the post-closure care period the owner/operator will be in compliance with subsection (4) of this section.

(6) Case-by-case exemptions to a land disposal prohibition. Any person may petition the department for an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste. The procedures to submit a petition to the department are specified in WAC 173-303-910(6). The department may deny any petition if it determines that there is a potential for dangerous waste constituents to migrate from the land disposal facility where the waste is to be placed. The department will deny any petition when exemption would result in a substantial or imminent threat to public health or the environment. The department will deny any petition when exemption would result in a violation of applicable state laws.

The department may grant an exemption from the prohibitions and restrictions of subsection (4) of this section based on the demonstrations specified in (a), (b) or (c) of this subsection.

- (a) Land disposal exemption for treatment residuals. Any person may request an exemption from a land disposal prohibition in subsection (4) of this section for treatment residuals by demonstrating to the department that:
- (i) The person has applied the best achievable management method to the original waste; and
- (ii) Application of additional management methods to the treatment residuals would prevent the person from utilizing the best achievable management methods for the original dangerous waste; and
- (iii) The land disposal of the treatment residuals does not pose a greater risk to the public health and the environment than land disposal of the original dangerous waste would pose.
- (b) Economic hardship exemption. Any person may request an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste by demonstrating to the department that alternative management of the dangerous waste will impose an unreasonable economic burden in relation to the threat of harm to public health and the environment. It will be solely within the discretion of the department to approve or deny the requests for exemptions based on economic hardship.
- (c) Organic/carbonaceous waste exemption. Any person may request an exemption from the requirements in subsection (4) of this section by demonstrating to the department that:

- (i) Alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization or landfilling; or
- (ii)(A) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or contains greater than sixty-five percent water or other noncombustible moisture; and
- (B) Incineration is the only management method available within a radius of one thousand miles from Washington state's border (i.e., recycling or treatment are not available).
- (7) Emergency cleanup provision. The department may, on a case-by-case basis, grant an exception to the land disposal restrictions in subsection (4) of this section for an emergency cleanup where an imminent threat to public health and the environment exists. Any exception will require compliance with applicable state law and will require (consistent with the nature of the emergency and imminent threat) application of the waste management priorities of RCW 70.105.-150.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-170 Requirements for generators of dangerous waste. (1) A person is a dangerous waste generator if their solid waste is designated by the requirements of WAC 173-303-070 through 173-303-100.

- (a) The generator is responsible for designating their waste as DW or EHW.
- (b) The generator may request an exemption for their dangerous waste according to the procedures of WAC 173-303-072.
- (2) A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and must comply with the requirements of WAC 173-303-170 through 173-303-230.
- (3) Any generator who stores, treats, or disposes of dangerous waste on-site must perform their operations in accordance with the TSD facility requirements with the following exceptions:
- (a) Generators who accumulate dangerous wastes for less than ninety days as allowed under WAC 173-303-200 or for less than one hundred eighty days as allowed under WAC 173-303-201 and 173-303-202;
- (b) Generators who treat dangerous waste on-site in accumulation tanks, containers, and containment buildings provided that the generator maintains a log showing the date and amount of waste treated and complies with:
- (i) The applicable requirements of WAC 173-303-200, 173-303-201, and 173-303-202; and
  - (ii) WAC 173-303-283(3);
  - (c) Generators who treat special waste on-site provided:
- (i) The accumulation standards of WAC 173-303-073 (2)(a) and (b) are met;
- (ii) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

- (A) A release of waste and waste constituents to the environment:
  - (B) Endangerment of health of employees or the public;
  - (C) Excessive noise:
- (D) Negative aesthetic impact on the use of adjacent property.
- (iii) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.
- (4) The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.
- (5) Persons responding to an explosives or munitions emergency in accordance with WAC 173-303-400 (2)(c)(( $\frac{(xii)}{(xii)}$ )) ( $\frac{(xiii)}{(A)}$ (IV) or 173-303-600 (3)(p)(i)(D)(( $\frac{(xii)}{(xii)}$ )) or (3)(p)(iv)(( $\frac{(xii)}{(xii)}$ )( $\frac{(xiii)}{(xiii)}$ )), and WAC 173-303-800 (7)(c)(( $\frac{(xii)}{(xii)}$ )(i)(D) or (7)(( $\frac{(xii)}{(xii)}$ )(c)(i)(E) are not required to comply with the standards of WAC 173-303-170 through 173-303-230.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-200 Accumulating dangerous waste on-site. (1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

- (a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on-site in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection;
- (b)(i) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), (10), and ((<del>(11)</del>)) 40 CFR Part 265 Subpart CC incorporated by reference at WAC 173-303-400 (3)(a). For container accumulation (including satellite areas as described in subsection (2) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7); and/or
- (ii) The waste is placed in tanks and the generator complies with 40 CFR Part 265 Subpart CC incorporated by reference at WAC 173-303-400 (3)(a) and WAC 173-303-640

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- (2) through (((11))) (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section.) Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5); and/or
- (iii) The waste is placed on drip pads and the generator complies with WAC 173-303-675 and maintains the following records at the facility:
- (A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and
- (B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or
- (iv) The waste is placed in containment buildings and the generator complies with 40 CFR Part 265 Subpart DD, which is incorporated by reference, and the generator has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:
- (A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or
- (B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610(2).

- (c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;
- (d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate). The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger—unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more; and
- (e) The generator complies with the requirements for facility operators contained in:
- (i) WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and

- emergency procedures, and emergencies) except for WAC 173-303-355 (SARA Title III coordination); and
- (ii) WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection); and
  - (f) The generator complies with 40 CFR 268.7 (a)(5).
  - (2) Satellite accumulation.
- (a) A generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste per waste stream in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. Satellite accumulation is allowed without a permit provided the generator:
- (i) Complies with WAC 173-303-630 (2), (4), (5)(a) and (b), (8)(a), and (9)(a) and (b); and
  - (ii) Complies with subsection (1)(d) of this section.
- (b) When fifty-five gallons of dangerous waste or one quart of acutely hazardous waste is accumulated per waste stream, the container(s) must be marked immediately with the accumulation date and moved within three days to a designated storage or accumulation area.
- (c) On a case-by-case basis the department may require the satellite area to be managed in accordance with all or some of the requirements under subsection (1) of this section, if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.
- (3) For the purposes of this section, the ninety-day accumulation period begins on the date that:
  - (a) The generator first generates a dangerous waste; or
- (b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the accumulation limit for such waste (or wastes); or
- (c) Fifty-five gallons of dangerous waste or one quart of acutely hazardous waste, per waste stream, is accumulated in a satellite accumulation area.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

- WAC 173-303-283 Performance standards. (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.
- (2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards must be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280, 173-303-290 through 173-303-400 and 173-303-600 through ((173-303-670)) 173-303-692.
- (3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator must design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

- (a) Degradation of ground water quality;
- (b) Degradation of air quality by open burning or other activities:
  - (c) Degradation of surface water quality;
- (d) Destruction or impairment of flora and fauna outside the active portion of the facility;
  - (e) Excessive noise;
- '(f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;
- (g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;
- (h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and
- (i) Endangerment of the health of employees, or the public near the facility.

## AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

- WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility must keep a written operating record at their facility. The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:
- (a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;
- (b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;
- (c) Records and results of waste analyses, waste determinations (as required by Subpart CC), and trial tests required by WAC 173-303-300, General waste analysis, and by 40 CFR sections 264.1034, 264.1063, 264.1083, 265.1034, 265.1063, 265.1084, 268.4(a), and 268.7;
- (d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);
- (e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for five years);
- (f) Monitoring, testing, or analytical data, and corrective action where required by 40 CFR Part 265 Subparts F through R and sections 265.1034 (c) through (f), 265.1035, 265.1063 (d) through (i), 265.1064, and 265.1083 through 265.1090 for interim status facilities, and by WAC 173-303-630 through 173-303-695 and 40 CFR sections 264.1034 (c) through (f), 264.1035, 264.1063 (d) through (i), 264.1064, and 264.1082 through 264.1090 for final status facilities;
- (g) All closure and post-closure cost estimates required for the facility;

- (h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices;
- (i) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 40 CFR 268.5, a petition pursuant to 40 CFR 268.6, ((or a certification under 268.8,)) and the applicable notice required by a generator under 40 CFR 268.7(a);
- (j) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR 268.7 ((or 268.8));
- (k) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 ((or 268.8));
- (l) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under 40 CFR 268.7 ((and 268.8, whichever is applicable));
- (m) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 CFR 268.7, except for the manifest number((, and the certification and demonstration if applicable, required under 40 CFR 268.8, whichever is applicable));
- (n) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 ((or 268.8)); ((and))
- (o) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 ((or 268.8)); and
  - (p) Any records required under WAC 173-303-280(6).
- (2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility, as follows:
- (a) Each dangerous waste received, treated, stored, or disposed of at the facility must be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Each listed, characteristic, and criteria waste has its own four-digit dangerous waste number. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed, the waste description must include the process which generated the waste;
- (b) The waste description must include the waste's physical form (i.e., liquid, solid, sludge, or contained gas);

(c) The estimated or manifest-reported weight, or volume and density, where applicable, of the dangerous waste must be recorded, using one of the units of measure specified in Table 1, below; and

TABLE 1	
Unit of Measure	Code <sup>1</sup>
Gallons	G
Gallons per Hour	Е
Gallons per Day	U
Liters	L
Liters per Hour	Н
Liters per Day	V
Short tons (2000 lbs)	T
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	R
Cubic yards	Y
Cubic meters	C
Acres	В
Acres-feet	Α
Hectares	Q
Hectare-meter	F
	_

Footnote: 

<sup>1</sup>Single-digit symbols are used here for data processing purposes

Btu's per Hour .....

(d) The method(s) (by handling code(s)) of management for each dangerous waste received or managed, and the date(s) of treatment, recycling, storage, or disposal must be recorded, using the handling code(s) specified in Table 2, below.

TABLE 2 - Handling Codes for Treatment, Storage, and Disposal Methods

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of dangerous waste received.

#### 1. Storage

S01 Container (barrel, drum, etc.)

S02 Tank

S03 Waste pile

S04 Surface impoundment

S05 Drip Pad

S06 Containment Building (Storage)

S99 Other storage (specify)

#### 2. Treatment

(a) Thermal Treatment

T06 Liquid injection incinerator

T07 Rotary kiln incinerator

T08 Fluidized bed incinerator

T09 Multiple hearth incinerator

T10 Infrared furnace incinerator

T11 Molten salt destructor

T12 Pyrolysis

T13 Wet air oxidation

T14 Calcination

T15 Microwave discharge

T18 Other (specify)

(b) Chemical treatment

T19 Absorption mound

T20 Absorption field

T21 Chemical fixation

T22 Chemical oxidation

T23 Chemical precipitation

T24 Chemical reduction

T25 Chlorination

T26 Chlorinolysis

T27 Cyanide destruction

T28 Degradation

T29 Detoxification

T30 Ion exchange

T31 Neutralization

T32 Ozonation

T33 Photolysis

T34 Other (specify)

(c) Physical treatment

(i) Separation of components

T35 Centrifugation

T36 Clarification

T37 Coagulation

T38 Decanting

T39 Encapsulation

**T40** Filtration

**T41** Flocculation

T42 Flotation

**T43 Foaming** 

T44 Sedimentation

T45 Thickening

T46 Ultrafiltration

T47 Other (specify)

(ii) Removal of specific components

T48 Absorption-molecular sieve

T49 Activated carbon

T50 Blending

T51 Catalysis

T52 Crystallization

T53 Dialysis

T54 Distillation

T55 Electrodialysis

T56 Electrolysis

T57 Evaporation

T58 High gradient magnetic separation

T59 Leaching

T60 Liquid ion exchange

T61 Liquid-liquid extraction

T62 Reverse osmosis

T63 Solvent recovery

**T64 Stripping** 

T65 Sand filter

T66 Other (specify)

(d) Biological treatment

T67 Activated sludge

T68 Aerobic lagoon

T69 Aerobic tank

T70 Anaerobic tank

**T71 Composting** 

T72 Septic tank

T73 Spray irrigation

T74 Thickening filter

T75 Trickling filter

T76 Waste stabilization pond

T77 Other (specify)

T78-79 (Reserved)

(e) Boilers and industrial furnaces

T80 Boiler

T81 Cement kiln

T82 Lime kiln

T83 Aggregate kiln

T84 Phosphate kiln

T85 Coke oven

T86 Blast furnace

T87 Smelting, melting, or refining furnace

T88 Titanium dioxide chloride process oxidation reactor

T89 Methane reforming furnace

T90 Pulping liquor recovery furnace

T91 Combustion device used in the recovery of sulfur values from spent sulfuric acid

T92 Halogen acid furnaces

T93 Other industrial furnaces listed in WAC 173-303-040 (specify)

(f) Other treatment

T94 Containment building (treatment)

#### 3. Disposal

D79 Underground injection

D80 Landfill

D81 Land treatment

D82 Ocean disposal

D83 Surface impoundment (to be closed as a landfill)

D99 Other disposal (specify)

4. Miscellaneous (Subpart X)

X01 Open burning/open detonation

X02 Mechanical processing

X03 Thermal unit

X04 Geologic repository

X99 Other Subpart X (specify)

- (3) Availability, retention and disposition of records.
- (a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.
- (b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.
- (c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

- WAC 173-303-390 Facility reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.
- (1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Dangerous Waste Report((—Form 6 (which may be obtained from the department))) must be used for this report. The report must include at least the following information:
- (a) The EPA/state identification number, name, and address of the facility;
  - (b) The date the facility received the waste;
- (c) The EPA/state identification number, name, and address of the generator and the transporter, if available;
- (d) A description and the quantity of each unmanifested dangerous waste the facility received;
- (e) The method of management for each dangerous waste;
- (f) The certification signed by the owner or operator of the facility or his authorized representative; and
- (g) A brief explanation of why the waste was unmanifested, if known.
- (2) Annual reports. The owner or operator of a facility that holds an active EPA/state identification number must prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the Dangerous Waste Annual Report (which may be obtained from the department) must be used for this report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include, but is not limited to the following information:
- (a) The EPA/state identification number, name, and address of the facility;
  - (b) The calendar year covered by the report;
- (c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;
- (d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;
- (e) The method of treatment, storage, or disposal for each dangerous waste;
- (f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); and

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- (g) The certification signed in accordance with the requirements of WAC 173-303-810(12).
- (3) Additional reports. The owner or operator must report to the department:
- (a) Releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k);
- (b) Interim status ground water monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2);
- (c) Facility closures specified in WAC 173-303-610(6); and
- (d) As otherwise required by WAC 173-303-645 through 173-303-665, WAC 173-303-690 through 173-303-692, and WAC 173-303-400.

The owner or operator must also submit any other reports (including engineering reports, plans, and specifications) required by the department.

(4) Recordkeeping. The owner/operator of a facility must keep a copy of all unmanifested waste reports, annual reports, and any other reports submitted to the department according to the requirements of this section for a period of three years from the date the report was submitted. Note that some records must be kept until closure of the facility as otherwise required under WAC 173-303-380.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

### WAC 173-303-400 Interim status facility standards.

- (1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.
  - (2) Applicability.
- (a) Except as provided in 40 CFR 265.1080(b), the interim status standards apply to owners and operators of facilities that treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status applies to all facilities that comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The interim status standards also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status will end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(8).
- (b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:
- (i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and
- (ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

- (c) The requirements of the interim status standards do not apply to:
- (i) Persons disposing of dangerous waste subject to as permit issued under the Marine Protection, Research and Sanctuaries Act:
  - (ii) Reserved;
- (iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);
- (iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);
- (v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise:
- (vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);
- (vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);
- (viii) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3);
- (ix) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a); and
- (x) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance.
- (xi) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.
  - (A) Batteries as described in WAC 173-303-573(2); and
  - (B) Thermostats as described in WAC 173-303-573(3).
  - (C) Lamps as described in WAC 173-303-573(5).

- (xii) WAC 173-303-578 identifies when the requirements of this section apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.
- (xiii)(A) Except as provided in (c)(xiii)(B) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:
  - (I) A discharge of a dangerous waste;
- (II) An imminent and substantial threat of a discharge of dangerous waste;
- (III) A discharge of a material that, when discharged, becomes a dangerous waste;
- (IV) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.
- (B) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.
- (C) Any person who is covered by (c)(xiii)(A) of this section and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.
- (D) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.
  - (3) Standards.
- (a) Interim status standards are the standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Section 265.19 of Subpart B, Subparts F through R, Subpart W, Subparts AA, BB, CC (including references to 40 CFR Parts 60, 61, and 63), DD, EE, and Appendix VI, which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:
- (i) The land disposal restrictions of WAC 173-303-140; the facility requirements of WAC 173-303-280 through 173-303-440 except WAC 173-303-335; and the corrective action requirements of WAC 173-303-646;
- (ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the

- storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).
  - (iii) WAC 173-303-640 (5)(d), for tanks; and
  - (iv) WAC 173-303-805.
- (b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE to the state of Washington facilities, the federal terms have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, must be replaced with) the following state of Washington meanings:
- (i) "Regional administrator" means the "department" except for 40 CFR Parts 270.2; 270.3; 270.5; 270.10 (e)(1), (2) and (4); 270.10 (f) and (g); 270.11 (a)(3); 270.14 (b)(20); 270.32 (b)(2); and 270.51;
- (ii) "Hazardous" means "dangerous" except for Subparts AA, BB, <u>CC</u>, and DD. These subparts apply only to hazardous waste as defined in WAC 173-303-040;
- (iii) "Compliance procedure" has the meaning set forth in WAC 173-303-040, Definitions;
- (iv) "EPA hazardous waste numbers" mean "dangerous waste numbers".
- (c) In addition to the changes described in (b) of this subsection, the following modifications are made to interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE:
- (i) The words "the effective date of these regulations" means:
- (A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261;
- (B) For wastes which become designated by 40 CFR Part 261 subsequent to November 19, 1980, the effective date is the date on which the wastes become regulated;
- (C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261;
- (D) For wastes which become designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261 subsequent to March 12, 1982, the effective date is the date on which the wastes become regulated.
- (ii) "Subpart N landfills" has an additional section added which reads: "An owner/operator must not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 through 173-303-100, except at the EHW facility at Hanford":
- (iii) "Subpart R underground injection" has an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-100";
- (iv) "Subpart M land treatment," section 265.273(b) is modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

- (v) "Subpart F ground water monitoring," section 265.91(c) includes the requirement that: "Ground water monitoring wells must be designed, constructed, and operated so as to prevent ground water contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells";
- (vi) "Subpart H financial requirements" has an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H". In 40 CFR Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to, and maintained with the Regional Administrators of all such Regions." Instead, the following sentence applies: "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state." In addition, the following sections and any cross-reference to these sections are not incorporated by reference: 40 CFR Parts 265.149 and 265.150; and
- (vii) "Subpart J tank systems" section 265.193(a) is modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).
- (viii) "Subpart J tank systems" section 265.191(a) is modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.
- (ix) "Subpart G closure and post-closure" section 265.115 is modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of completion of final closure..." In addition, the clean-up levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.
- (x) "Subpart B general facility standards. References to "EPA" (etc.), means the "department" except at 40 CFR 265.11. Additionally, references to "administrator" (etc.), means the "director" except at 40 CFR 265.12(a)."
- (xi) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:
  - (A) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.
- (B) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.
- (C) 40 CFR Parts 268.5 and 6; 268 Subpart B; 268.42(b); and 268.44 ((except for 268.44(h))) (a) through (g).
  - (D) 40 CFR Parts 270.1 (c)(1)(i); 270.60(b); and 270.64.
- (E) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.
- (F) 40 CFR Parts 2.106(b); 2.202(b); 2.205(i); 2.209 (b)-(c); 2.212-213; and 2.301-311.
- (G) 40 CFR 265.110(c) ((and)), 40 CFR 265.118 (c)(4), 40 CFR 265.121 and 40 CFR 265.1080 (e) and (f).
- (xii) "Subpart EE Hazardous waste munitions and explosives storage." The first sentence at 40 CFR 265.1202 is

- modified to exclude the exception for hazardous wastes managed under 261.3(d).
- (4) The requirements of this section apply to owners or operators of all facilities that treat, store or dispose of hazardous waste referred to in 40 CFR Part 268, and the 40 CFR Part 268 standards are considered material conditions or requirements of the interim status standards incorporated by reference in subsection (3) of this section.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-500 Recycling requirements for stateonly dangerous waste. (1) Applicability. This section applies to the recycling of state-only dangerous waste that are not regulated as hazardous wastes (defined in WAC 173-303-040) by EPA. (Also, see WAC 173-303-120(3).)

- (2) Standards.
- (a) If state-only dangerous wastes are recycled in any of the ways described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the respective requirements of WAC 173-303-505 through 173-303-525, except as provided in (c) of this subsection.
- (b) If state-only dangerous wastes are recycled in any way not specifically described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the requirements of WAC 173-303-120(4), except as provided in (c) of this subsection.
- (c) Recyclers who receive state-only dangerous wastes from off-site and who store the wastes in containers or tanks may, in lieu of the provisions for storing dangerous wastes prior to recycling, comply with:
  - (i) WAC 173-303-060;
- (ii) WAC 173-303-370 (if the dangerous waste received must be accompanied by a manifest); and
- (iii) The following requirements, provided that the dangerous waste is recycled within ninety days of the date it is received by the recycler:
  - (A) WAC 173-303-330 through 173-303-360;
- (B) WAC 173-303-630 (2), (3), (4), (5), (6), (8) and (9), for containers;
- (C) WAC 173-303-640 (3), (4), (5), (6) and (7), for tanks; and
- (D) WAC 173-303-630(7) for new container areas installed after September 30, 1986, and WAC 173-303-640(2) for new tanks installed after September 30, 1986.
- (d) The department may require a recycler who is storing his waste under the provisions of (c) of this subsection to comply with the provisions for storing dangerous waste prior to recycling specified in WAC 173-303-505 through 173-303-525 and 173-303-120(4) if:
- (i) The recycler fails to comply with the requirements of (c) of this subsection; or
- (ii) The department determines, on a case-by-case basis, that the requirements of (c) of this subsection do not adequately protect public health or the environment.
- (3) Relief from standards. The owner/operator of a facility recycling dangerous wastes under the provisions of this section may ask the department to provide relief from any of the applicable requirements of this section. Requests for

relief must be submitted as described in (a) of this subsection. Requests for relief will be approved or denied as described in (b) of this subsection.

- (a) A request for relief must be submitted by the recycler to the department in writing and must describe the standards from which the recycler is seeking relief. The request must include:
- (i) The facility name, EPA/state identification number, address, telephone number, and a contact person at the facility;
- (ii) The waste(s) managed at the facility and the type(s) recycling;
- (iii) The specific standards from which the owner/operator seeks relief:
  - (iv) A description, for each standard, demonstrating:
- (A) Why the owner/operator believes the standard to be unnecessary;
- (B) How public health and the environment will continue to be protected if the standard is not applied to the facility; and
- (C) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and
- (v) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required may result in the department's denying the owner's/operator's request.

- (b) The department will review any requests submitted pursuant to (a) of this subsection, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the recycler of its decision in writing. If the department decides to approve all or part of the request and the recycler agrees with the department's decision, then the department will proceed to grant the approval as described below. No approval will be effective until the procedures described below have been completed.
- (i) For facilities which are required to have a final facility permit, the department will follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit will include the standards the owner/operator must meet.
- (ii) For all other types of recycling facilities, the department will issue a notice of modification stating what stan-

dards will be applied. Before issuing the notice of modification, the department will provide public notice of its intent, will allow thirty days for public comment, and will hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing will be provided at least fifteen days in advance, and the public comment period will be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department will, based on comments received, issue, modify and issue, or deny the notice of modification.

(c) Failure to comply with the conditions and standards as stated in the permit or notice of modification issued under (b) of this subsection will form a basis for modifying or revoking the permit or notice of modification.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability. (Also, see WAC 173-303-120(3).)

- (a) This section applies to recyclable materials that are applied to or placed on the land:
  - (i) Without mixing with any other substance(s); or
- (ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."
- (b)(i) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 CFR Part 268 Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain. Registered commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. For the purpose of implementation of this section, fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in 40 CFR Part 268 Subpart D that apply to the characteristics of dangerous waste that the stateonly waste exhibits. The prohibition levels for fertilizer using K061, in mg/l, are as follows: Arsenic, 5.0; Barium, 100.0; Cadmium, 1.0; Chromium (Total), 5.0; Lead, 5.0; Mercury, 0.20; Selenium, 5.7; and Silver, 5.0. The department may recommend registration under chapter 15.54 RCW for a wastederived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (b)(i)(A) or (B) of this subsection:
  - (A) Initial Criteria.

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- (I) The applicable Land Disposal Restriction (LDR) Certification as described in 40 CFR Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and
- (II) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.
  - (B) Secondary Criteria.
- (I) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and
- (II) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and
- (III) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and
  - (IV) Other information as required by the department.
- (ii) Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of dangerous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in (b)(i) of this subsection and remain subject to regulation.
- (2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:
- (a) For generators, WAC 173-303-170 through 173-303-230;
- (b) For transporters, WAC 173-303-240 through 173-303-270; and
- (c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 CFR Part 268 (incorporated by reference in WAC 173-303-140 (2)(a)) and 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).
- (d) The use of waste oil, used oil, or other material that is contaminated with dioxin or any other dangerous waste for dust suppression or road treatment is prohibited.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-506 Special requirements for the recycling of spent CFC or HCFC refrigerants. (1) Applicability. (Also, see WAC 173-303-120(3).)

- (a) This section applies to spent chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants that are reclaimed or recycled. Refrigerants eligible for these special requirements are those CFCs and HCFCs that were used as heat transfer material in a refrigeration cycle in totally enclosed heat transfer equipment and are subsequently reclaimed or recycled.
- (b) Persons who generate, transport, or store spent CFC or HCFC refrigerants prior to reclamation or recycling and facilities that reclaim or recycle spent CFC or HCFC refrigerants are subject to the requirements of this section, and WAC

- 173-303-050, 173-303-145, and 173-303-960. Spent CFC or HCFC refrigerants that are not reclaimed or recycled are subject to all the applicable requirements of chapter 173-303 WAC. Any discharge of spent CFCs or HCFCs to the environment constitutes disposal and is subject to full regulation under chapter 173-303 WAC.
  - (2) Generator requirements.
- (a) Persons who reclaim or recycle their spent CFC or HCFC refrigerants, either on-site or send their wastes off-site to be reclaimed or recycled, must keep records for a period of at least five years from the date of reclamation/recycling to document:
  - (i) The date of shipment (if sent off-site);
- (ii) The quantity (by weight) reclaimed/recycled per shipment (when sent off-site) or batch (when recycled onsite);
- (iii) The percentage of the total amount of CFC or HCFC wastes reclaimed/recycled per shipment or batch (and the manner of disposal for the remaining CFCs or HCFCs); and
  - (iv) The dates of reclamation/recycling.
- (b) For CFCs or HCFCs sent off-site, the generator must obtain a signed document from the reclamation facility certifying the information in (a) of this subsection.
  - (3) Reclamation facility requirements.
- (a) Facilities that reclaim or recycle CFC or HCFC refrigerants must comply with all the requirements of WAC 173-303-500 (except for WAC 173-303-500 (2)(c)(ii)). The applicable provisions of the following sections will also apply:
- (i) WAC 173-303-280(2), General requirements for dangerous waste management facilities, imminent hazard;
  - (ii) WAC 173-303-283, Performance standards;
  - (iii) WAC 173-303-290 (1) and (2), Required notices;
- (iv) WAC 173-303-380, Facility recordkeeping; except for WAC 173-303-380 (1)(c), (e), and (h);
  - (v) WAC 173-303-390(3), Facility reporting;
- (vi) WAC 173-303-630(10), Use and management of containers;
- (vii) WAC 173-303-640 (1), (2), (8), and (10), Tank systems, except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section).
- (b) The reclamation facility must supply generators with a signed document certifying the information in subsection (2)(a) of this section.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to generators, marketers, transporters, blenders, and burners of dangerous waste fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of

this subsection. These regulations do not apply to gas recovered from dangerous waste management activities when such gas is burned for energy recovery. Note: (This note is a reminder that all generators, transporters, and burners of federally regulated hazardous waste fuels that are to be burned for energy recovery, and all storage facility owners and operators of facilities that store dangerous waste that is burned in a boiler or industrial furnace must comply with the requirements of 40 CFR Part 266 Subpart H.)

- (b) The following dangerous wastes are not subject to regulation under this section:
- (i) Used oil burned for energy recovery if it is a dangerous waste because it:
- (A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or
- (B) Is designated as DW only through the criteria of WAC 173-303-100((; or
  - (C) Is a dangerous waste designated solely as W001)).

Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

- Note: Used oil burned for energy recovery containing a listed waste (unless such listed waste is only state source W001) or a waste designated as EHW through the criteria of WAC 173-303-100 (a) and (b) is subject to this section.
  - (ii) (Reserved.)
- (2) Definitions. Any terms used in this section that are not defined below have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms have the described meanings:
- (a) "Dangerous waste fuel" means dangerous waste burned or to be burned for energy recovery. Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel.
- (b) "Distributor" means persons who distribute but do not process or blend dangerous waste fuel. Distributors may broker fuel by arranging for the final disposition of the fuel. Distributors are regulated under subsection (6) of this section.
- (c) "Blender" means persons who produce, process, or blend fuel from dangerous wastes. Blenders are regulated under subsection (7) of this section.
  - (d) "Marketer" means persons who are:
- (i) Generators who market dangerous waste fuel directly to a burner. Generators are regulated under subsection (4) of this section;
- (ii) Distributors, regulated under subsection (6) of this section;
- (iii) Blenders, regulated under subsection (7) of this section.
  - (3) Prohibitions.
  - (a) A person may market dangerous waste fuel only:
- (i) To persons, in state, who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number or to out-of-state marketers or burners who have notified the EPA or authorized state agency and who have an EPA/state identification number; and
- (ii) When marketed to a burner, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

- (b) Dangerous waste fuel may be burned for energy recovery in the following devices only;
  - (i) Industrial furnaces identified in WAC 173-303-040:
- (ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:
- (A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or
- (B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.
- (c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.
- (4) Standards applicable to generators of dangerous waste fuel.
- (a) All generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.
- (b) Generators who are marketers. Generators are marketers if they send their waste fuel directly to a burner. Generators who are marketers must:
- (i) Prohibitions. Comply with the prohibitions under subsection (3) of this subsection.
- (ii) Notification. Comply with the notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Generators who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.
- (iii) Accumulation. Comply with accumulation requirements of WAC 173-303-200 or 173-303-201.
- (iv) Storage. For generators who have interim or final status and exceed the accumulation time frames referenced in (b)(iii) of this subsection, comply with the storage provisions of:
  - (A) WAC 173-303-280 through 173-303-395; and
  - (B) WAC 173-303-800 through 173-303-840; and
- (C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities.
- (v) Required notice. Obtain, prior to initiating the first shipment of dangerous waste fuel, a one time written and signed certification notice from the burner certifying that:
- (A) The burner has notified as described under subsection (3) of this subsection; and
- (B) The burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this subsection.
- (vi) Recordkeeping. Keep a copy of each certification notice received for at least five years from the date of the last dangerous waste fuel shipment to the burner who sent such notice.
- (c) Generators who are burners also are subject to subsection (8) of this section.
- (5) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and danger-

ous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

- (6) Standards applicable to distributors of dangerous waste fuel.
- (a) Prohibitions. The prohibitions under subsection (3) of this section:
- (b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Distributors who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.
- (c) Storage. Distributors who store dangerous waste fuels must comply with the applicable storage provisions of:
  - (i) WAC 173-303-280 through 173-303-395; and
  - (ii) WAC 173-303-800 through 173-303-840; and
- (iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities:
- (iv) The standards for generators in WAC 173-303-170 through 173-303-230.
- (d) Off-site shipment. A distributor must meet the standards for generators in WAC 173-303-170 through 173-303-230 when the distributor initiates a shipment of dangerous waste fuel. Except that a distributor may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;
  - (e) Required notices.
- (i) Before initiating the first shipment of dangerous waste fuel to another distributor, a blender, or a burner, a distributor must obtain a one-time written and signed certification notice from the distributor, blender, or burner certifying that:
- (A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and
- (B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.
- (ii) Before accepting the first shipment of dangerous waste fuel from another distributor or blender, the distributor must provide the other distributor or blender with a one-time written and signed certification that the distributor has complied with the notification requirements described in subsection (3) of this section; and
- (f) Recordkeeping. A distributor must keep a copy of each certification notice received or sent for at least five years from the date the distributor last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.
- (7) Standards applicable to blenders of dangerous waste fuels.
- (a) Prohibitions. The prohibitions under subsection (3) of this section.
- (b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Blenders who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

- (c) Facility. For tanks, containers, or other units used to hold dangerous waste prior to blending or processing; for blending or processing tanks, containers, or other units; and for tanks, containers, or other units, used to hold blended or processed fuel, blenders must comply with the applicable provisions of:
  - (i) WAC 173-303-280 through 173-303-395; and
  - (ii) WAC 173-303-800 through 173-303-840; and
- (iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;
- (d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a blender initiates a shipment of dangerous waste fuel, except that a blender may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201:
  - (e) Required notices.
- (i) Before initiating the first shipment of dangerous waste fuel to another blender, a distributor, or a burner, a blender must obtain a one-time written and signed certification notice from the blender, distributor, or burner certifying that:
- (A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and
- (B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.
- (ii) Before accepting the first shipment of dangerous waste fuel from another blender or distributor, the blender must provide the other blender or distributor with a one-time written and signed certification that the blender has complied with the notification requirements described in subsection (3) of this section; and
- (f) Recordkeeping. A blender must keep a copy of each certification notice received or sent for at least five years from the date the blender last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.
- (8) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (3)(b) of this section must comply with:

- (a) Prohibitions. The prohibitions under subsection (3) of this section;
- (b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. A burner who has previously notified the department of dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify the dangerous waste fuel activities;
  - (c) Storage.
- (i) For short term accumulation by generators who burn their dangerous waste fuel on-site, the applicable provisions of WAC 173-303-200 or 173-303-201.
- (ii) For all burners who store dangerous waste fuel, the applicable storage provisions of:
  - (A) WAC 173-303-280 through 173-303-395;
  - (B) WAC 173-303-800 through 173-303-840; and

- (C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities (the air emission requirements do not apply to burners that meet the small quantity burner exemption at 40 CFR 266.101):
- (d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a distributor, or a blender, or a generator the burner must provide the distributor, or the blender, or the generator a one-time written and signed notice certifying that:
- (i) The burner has notified as described under subsection (3) of this section; and
- (ii) The dangerous waste fuel will only be burned in an industrial furnace or boiler identified in subsection (3)(b) of this section.
- (e) Recordkeeping. In addition to the applicable record-keeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice sent for at least five years from the date the burner last receives dangerous waste fuel from the person who received the certification notice.
- (f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-520 Special requirements for reclaiming spent lead acid battery wastes. This section applies to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent batteries"). (Also, see WAC 173-303-120(3).)

- (1) Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are subject only to the requirements of WAC 173-303-016 through 173-303-161 except for 173-303-060, and WAC 173-303-960 if such spent batteries are going to a battery reclaimer. Persons who reclaim spent batteries through regeneration (such as by electrolyte replacement) are not subject to 40 CFR Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a).
- (2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming (other than spent batteries that are to be regenerated) them are subject to the following requirements:
- (a) For all reclaimers, the applicable storage provisions of:
  - (i) WAC 173-303-280 (2) and (3);
  - (ii) WAC 173-303-282;
  - (iii) WAC 173-303-283;
  - (iv) WAC 173-303-290;
  - (v) WAC 173-303-310 through 173-303-360;
  - (vi) WAC 173-303-380;
  - (vii) WAC 173-303-390 (2) and (3);
  - (viii) WAC 173-303-395; and
  - (ix) WAC 173-303-800 through 173-303-840.

- (b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;
- (c) For reclaimers with final facility permits, the applicable storage provisions of:
  - (i) WAC 173-303-600 through 173-303-650; and
  - (ii) WAC 173-303-660.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-522 Special requirements for recycling spent antifreeze. (1) Applicability. This section applies to the recycling of spent antifreeze. Antifreeze means ethylene glycol based coolant used as a heat exchange medium in motor vehicle radiators, motorized equipment, or in other industrial processes. For the purposes of this section recycling means reclamation and reuse, but not burning for energy recovery. (Also, see WAC 173-303-120(3).)

- (2) Standards. Persons who generate, transport, or store spent antifreeze but do not reclaim or recycle it are subject to the requirements of WAC 173-303-050, 173-303-145, and 173-303-960 if their spent antifreeze is going to a recycler. Any discharge of spent antifreeze to the environment constitutes disposal and is subject to full regulation under this chapter.
  - (a) Generator requirements:
- (i) Persons who reclaim or recycle their spent antifreeze on-site, or send their antifreeze off-site to be reclaimed or recycled, must keep records for a period of five years from the date of reclamation/recycling.

Proof of reclamation/recycling is either a log for on-site reclamation/recycling or an invoice or bill of lading for off-site reclamation/recycling.

- (ii) Containers and tanks used to accumulate spent antifreeze must be labeled "spent antifreeze."
- (iii) Spent antifreeze that is to be reclaimed can be accumulated on-site for any length of time, and in any amount.
- (iv) During accumulation, spent antifreeze must be stored in a manner to prevent releases to the environment. This includes, but is not limited to, storing wastes in compatible containers, on impermeable surfaces, or in secondary containment structures.
- (b) If spent antifreeze is mixed with another dangerous waste, generators are subject to the generator requirements, WAC 173-303-170 through 173-303-230.
- (c) Persons who generate spent antifreeze that is not reclaimed/recycled, but is otherwise disposed, are subject to all applicable requirements of this chapter.
  - (3) Transporters and transfer facility requirements:
- (a) Persons engaged in routine off-site transportation of spent antifreeze are required to obtain a state/EPA ID number, WAC 173-303-060, and to comply with the transporter requirements, WAC 173-303-240.
- (b) If spent antifreeze is mixed with another dangerous waste, transporters are subject to the generator requirements, WAC<sub>o</sub>173-303-170 through 173-303-230.
- (c) Transporters who store spent antifreeze at a transfer facility are allowed to use tanks or containers as defined in

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WAC 173-303-040, and store such waste for up to ten days, WAC 173-303-240( $(\frac{(5)}{0})$ )(6).

Transporters may store spent antifreeze at a transfer facility for longer than ten days if they meet the requirements for tank and/or container management, including secondary containment in WAC 173-303-630 through 173-303-640.

(4) Reclamation/recycling facility requirements: Owners and operators of antifreeze reclaiming/recycling facilities are subject to the conditions of WAC 173-303-120 (4)(c). These conditions apply equally to facilities whether or not twenty-four-hour storage of spent antifreeze occurs prior to reclamation.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-525 Special requirements for recyclable material utilized for precious metal recovery. (1) Applicability and requirements. (Also, see WAC 173-303-120(3).)

- (a) This section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.
- (b) Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:
  - (i) Notification requirements under WAC 173-303-060;
- (ii) WAC 173-303-180 (for generators), 173-303-250 (for transporters), and 173-303-370 (for persons who store).
- (c) Persons who store recycled materials that are regulated under this section must keep the following records to document that they are not accumulating these materials speculatively (as defined in WAC 173-303-016 (5)(d)(ii));
- (i) Records showing the volume of these materials stored at the beginning of the calendar year;
- (ii) The amount of these materials generated or received during the calendar year; and
- (iii) The amount of materials remaining at the end of the calendar year.
- (d) Recyclable materials that are regulated under this section that are accumulated speculatively (as defined in WAC 173-303-016 (5)(d)(ii)) are dangerous wastes and are subject to all applicable provisions of this chapter.
- (2) Additional regulation of recyclable materials utilized for precious metal recovery on a case-by-case basis.

The department may decide on a case-by-case basis that persons accumulating or storing recyclable materials utilized for precious metal recovery should be regulated under WAC 173-303-120(4). The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the department will consider the following factors:

- (a) The types of materials accumulated or stored and the amounts accumulated or stored;
  - (b) The method of accumulation or storage;

- (c) The length of time the materials have been accumulated or stored before being reclaimed;
- (d) Whether any contaminants are being released into the environment, or are likely to be so released; and
  - (e) Other relevant factors.

The procedures for this decision are set forth in subsection (3) of this section.

(3) Procedures for case-by-case regulation of recyclable materials utilized for precious metal recovery.

The department will use the following procedures when determining whether to regulate recyclable materials utilized for precious metal recovery under the provisions of WAC 173-303-120(4), rather than under the provisions of subsection (1) of this section.

- (a) If a generator is accumulating the waste, the department will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of WAC 173-303-170 and 173-303-190 through 173-303-230. The notice will become final within thirty days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the department will hold a public hearing. The department will provide notice of the hearing to the public and allow public participation at the hearing. The department will issue a final order after the hearing stating whether or not compliance with WAC 173-303-170 and 173-303-190 through 173-303-230 is required. The order becomes effective thirty days after service of the decision unless the department specifies a later date or unless review by the department is requested. The order may be appealed to the pollution control hearings board, in accordance with WAC 173-303-845, by any person who participated in the public hearing.
- (b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of WAC 173-303-800 through 173-303-840. The owner or operator of the facility must apply for a permit within no less than sixty days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the department's decision he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the department's decision was proper will remain open for consideration during the public comment period discussed under WAC 173-303-840 (4)(d) and in any subsequent hearing.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-578 Military munitions. (1) Applicability.

(a) The rules in this section identify when military munitions become a solid waste, and, if these wastes are also dangerous under this section or WAC 173-303-016 through 173-303-100, the management standards that apply to these wastes.

- (b) Unless otherwise specified in this section, all applicable requirements in this chapter apply to waste military munitions
  - (2) Definition of solid waste.
  - (a) A military munition is not a solid waste when:
  - (i) Used for its intended purpose, including:
- (A) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions); or
- (B) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or
- (C) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.
- (ii) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in WAC 173-303-016 (5)(a), or burning for energy recovery as defined in WAC 173-303-016 (5)(b).
- (b) An unused military munition is a solid waste when any of the following occurs:
- (i) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in (a) of this subsection), incinerated, or treated prior to disposal; or
- (ii) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal; or
- (iii) The munition is deteriorated or damaged (for example, the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or
- (iv) The munition has been declared a solid waste by an authorized military official.
  - (c) A used or fired military munition is a solid waste:
- (i) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or
- (ii) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range.
- (d) A used or fired military munition is a solid waste, and, therefore, is potentially subject to corrective action under WAC 173-303-646 or imminent and substantial endangerment authorities under WAC 173-303-960, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(e) Military munitions at closed or transferred ranges. Munitions discharged during military activities are discarded material (and therefore solid waste) for purposes of WAC 173-303-646 under the following circumstance:

The munition is left in place at the firing range at the time the range is closed or when the range is transferred from military control, whichever occurs first.

#### (3) Standards applicable to emergency responses.

Explosives and munitions emergencies involving military munitions or explosives are subject to WAC 173-303-170(5), 173-303-240 (( $\frac{(6)(e)}{(2)(c)(((xii)))(xiii)}$ , 173-303-600 (3)(p), and 173-303-800 (7)(c), or alternatively to WAC 173-303-804.

- (4) Standards applicable to the storage of solid waste military munitions.
- (a) Criteria for dangerous waste regulation of waste nonchemical military munitions in storage.
- (i) Waste military munitions in storage that exhibit a dangerous waste characteristic, criteria, or are listed as dangerous waste under WAC 173-303-070 are listed or identified as a dangerous waste (and thus are subject to regulation under this chapter), unless all the following conditions are met:
- (A) The waste military munitions are not chemical agents or chemical munitions.
- (B) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).
- (C) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.
- (D) Within ninety days of August 12, 1997, or within ninety days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the department of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in (a)(i) of this subsection is claimed.
- (E) The owner or operator must provide oral notice to the department within twenty-four hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of (a)(i) of this subsection that may endanger health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of (a)(i) of this subsection.
- (F) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of (a)(i) of this subsection, and must maintain records of the findings of these inventories and inspections for at least three years.
- (G) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.
- (ii) The conditional exemption in (a)(i) of this subsection from regulation as dangerous waste applies only to the storage of nonchemical waste military munitions. It does not affect the regulatory status of waste military munitions as

dangerous wastes with regard to transportation, treatment or disposal.

- (iii) The conditional exemption in (a)(i) of this subsection applies only so long as all of the conditions in (a)(i) of this subsection are met.
- (b) Notice of termination of waste storage. The owner or operator must notify the department when a storage unit identified in (a)(i)(D) of this subsection will no longer be used to store waste military munitions.
- (c) Reinstatement of conditional exemption. If any waste military munition loses its conditional exemption under (a)(i) of this subsection, an application may be filed with the department for reinstatement of the conditional exemption from dangerous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of (a)(i) of this subsection. If the department finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the department may reinstate the conditional exemption under (a)(i) of this subsection. If the director does not take action on the reinstatement application within sixty days after receipt of the application, then reinstatement will be deemed granted, retroactive to the date of the application. However, the department may terminate a conditional exemption reinstated by default in the preceding sentence if it finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation, or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under (a)(i) of this subsection, the department may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.
  - (d) Waste chemical munitions.
- (i) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under WAC 173-303-070, are listed or identified as a hazardous waste and are subject to the applicable regulatory requirements of RCRA subtitle C and the Hazardous Waste Management Act.
- (ii) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under WAC 173-303-070, are not subject to the storage prohibition in RCRA section 3004(j), codified at 40 CFR 268.50 (which is incorporated by reference at WAC 173-303-140 (2)(a)).
- (e) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in subsection (4)(a)(i) of this section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards will become effective for purposes of subsection (4)(a)(i) of this section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in subsection (4)(a)(i) of this section have been amended.

(5) Standards applicable to the treatment and disposal of waste military munitions.

The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards of this chapter.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

# WAC 173-303-645 Releases from regulated units. (1) Applicability.

- (a)(i) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste. The owner or operator must satisfy the requirements identified in (a)(ii) of this subsection for all wastes (or constituents thereof) contained in solid waste management units at the facility, regardless of the time at which waste was placed in such units.
- (ii) All solid waste management units must comply with the requirements in WAC 173-303-646(2). Regulated units (as defined in WAC 173-303-040) must comply with the requirements of subsections (2) through (12) of this section, in lieu of WAC 173-303-646(2), for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The corrective action financial responsibility requirements of WAC 173-303-646(2) apply to corrective action regulated units.
- (b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this section if:
- (i) The owner or operator is exempted under WAC 173-303-600; or
  - (ii) He operates a unit which the department finds:
  - (A) Is an engineered structure;
- (B) Does not receive or contain liquid waste or waste containing free liquids;
- (C) Is designed and operated to exclude liquid, precipitation, and other run-on and run-off;
- (D) Has both inner and outer layers of containment enclosing the waste;
- (E) Has a leak detection system built into each containment layer;
- (F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods; and
- (G) To a reasonable degree of certainty, will not allow dangerous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period.
- (iii) The department finds, pursuant to WAC 173-303-655 (8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this sub-

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section can only relieve an owner or operator of responsibility to meet the requirements of this section during the post-closure care period; or

- (iv) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.
- (c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:
- (i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610 (2)(b);
- (ii) Apply during the post-closure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and
- (iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.
- (d) Regulations in this section may apply to miscellaneous units when necessary to comply with WAC 173-303-680 (2) through (4).
- (e) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for ground water monitoring and corrective action when he or she determines:
- (i) A dangerous waste unit is situated among other solid waste management units or areas of concern, a release has occurred, and both the dangerous waste unit and one or more of the solid waste management units or areas of concern are likely to have contributed to the release; and
- (ii) It is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.
  - (2) Required programs.
- (a) Owners and operators subject to this section must conduct a monitoring and response program as follows:
- (i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section. Detected is defined as statistically significant evidence of contamination as described in subsection (9)(f) of this section;
- (ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section. Exceeded is defined as statistically significant evidence of increased contamination as

- described in subsection (10)(h) of this section. Exceeded is defined as statistically significant evidence of contamination as described in WAC 173-303-645 (10)(d);
- (iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and
- (iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.
- (b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken
- (3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, detected in the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the ground water protection standard in the facility permit when dangerous constituents have been detected in the ground water from a regulated unit.
  - (4) Dangerous constituents.
- (a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in 40 CFR Part 264 Appendix IX, which is adopted by reference (this list is available from the department), and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals),

waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

- (b) The department will exclude a 40 CFR Part 264 Appendix IX, or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:
- (i) Potential adverse effects on ground water quality, considering:
- (A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;
- (B) The hydrogeological characteristics of the facility and surrounding land;
- (C) The quantity of ground water and the direction of ground water flow;
- (D) The proximity and withdrawal rates of ground water users:
- (E) The current and future uses of ground water in the area;
- (F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;
- (G) The potential for health risks caused by human exposure to waste constituents;
- (H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
- (I) The persistence and permanence of the potential adverse effects;
- (ii) Potential adverse effects on hydraulically-connected surface water quality, considering:
- (A) The volume and physical and chemical characteristics of the waste in the regulated unit;
- (B) The hydrogeological characteristics of the facility and surrounding land;
- (C) The quantity and quality of ground water, and the direction of ground water flow;
  - (D) The patterns of rainfall in the region;
  - (E) The proximity of the regulated unit to surface waters;
- (F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;
- (G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;
- (H) The potential for health risks caused by human exposure to waste constituents;
- (I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
- (J) The persistence and permanence of the potential adverse effects; and
- (iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter

90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

- (5) Concentration limits.
- (a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:
- (i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or
- (ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or
- (iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1.

Maximum Concentration of Constituents for Ground Water Protection

Constituent	••	Maximum Concentration <sup>1</sup>	
Arsenic		0.05	
Barium	· · · · · · · · · · · · · · · · · · ·	1.0	
Cadmium		0.01	
Chromium		0.05	
Lead		0.05	
Mercury		0.002	
Selenium	; 7	0.01	
Silver	1 ·	0.05	
Endrin		0.0002	
Lindane		0.004	
Methoxychlor		0.1	
Toxaphene		0.005	
2,4-D		0.1m	
2,4,5-TP Silvex		0.01	

<sup>&</sup>lt;sup>1</sup>Milligrams per liter.

- (b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b)(i) through (iii) of this section.
  - (6) Point of compliance.

- (a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.
- (b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.
  - (7) Compliance period.
- (a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).
- (b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.
- (c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.
  - (8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

- (a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:
- (i) Represent the quality of background water that has not been affected by leakage from a regulated unit;
- (A) A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:
- (I) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; and
- (II) Sampling at other wells will provide an indication of background ground water quality that is representative or more representative than that provided by the upgradient wells; and

- (ii) Represent the quality of ground water passing the point of compliance.
- (iii) Allow for the detection of contamination when dangerous waste or dangerous constituents have migrated from the waste management area to the uppermost aquifer.
- (b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.
- (c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. Wells must meet the requirements set forth in Parts 1 and 3 of chapter 173-160 WAC, "Minimum standards for construction and maintenance of wells."
- (d) The ground water monitoring program must include at a minimum, procedures and techniques for:
  - (i) Decontamination of drilling and sampling equipment;
  - (ii) Sample collection;
  - (iii) Sample preservation and shipment;
  - (iv) Analytical procedures and quality assurance; and
  - (v) Chain of custody control.
- (e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of ground water quality below the waste management area.
- (f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.
- (g) In detection monitoring or where appropriate in compliance monitoring, data on each dangerous constituent specified in the permit will be collected from background wells and wells at the compliance point(s). The number and kinds of samples collected to establish background must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size must be as large as necessary to ensure with reasonable confidence that a contaminant release to ground water from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit which will be specified in the unit permit upon approval by the department. This sampling procedure will be:
- (i) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or
- (ii) An alternate sampling procedure proposed by the owner or operator and approved by the department.

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- (h) The owner or operator will specify one of the following statistical methods to be used in evaluating ground water monitoring data for each hazardous constituent which, upon approval by the department, will be specified in the unit permit. The statistical test chosen must be conducted separately for each dangerous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with (i)(v) of this subsection, the pql must be proposed by the owner or operator and approved by the department. Use of any of the following statistical methods must be protective of human health and the environment and must comply with the performance standards outlined in (i) of this subsection.
- (i) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.
- (ii) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.
- (iii) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.
- (iv) A control chart approach that gives control limits for each constituent.
- (v) Another statistical test method submitted by the owner or operator and approved by the department.
- (i) Any statistical method chosen under (h) of this subsection for specification in the unit permit must comply with the following performance standards, as appropriate:
- (i) The statistical method used to evaluate ground water monitoring data must be appropriate for the distribution of chemical parameters or dangerous constituents. If the distribution of the chemical parameters or dangerous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.
- (ii) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test must be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period must be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.
- (iii) If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values must be proposed

- by the owner or operator and approved by the department if it finds it to be protective of human health and the environment.
- (iv) If a tolerance interval or a prediction interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be proposed by the owner or operator and approved by the department if it finds these parameters to be protective of human health and the environment. These parameters will be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.
- (v) The statistical method must account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantification limit (pql) approved by the department under (h) of this subsection that is used in the statistical method must be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.
- (vi) If necessary, the statistical method must include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.
- (j) Ground water monitoring data collected in accordance with (g) of this subsection including actual levels of constituents must be maintained in the facility operating record. The department will specify in the permit when the data must be submitted for review.
- (9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.
- (a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:
- (i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;
- (ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;
- (iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and
- (iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.
- (b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.
- (c) The owner or operator must conduct a ground water monitoring program for each chemical parameter and dangerous constituent specified in the permit pursuant to (a) of this subsection in accordance with subsection (8)(g) of this sec-

tion. The owner or operator must maintain a record of ground water analytical data as measured and in a form necessary for the determination of statistical significance under subsection (8)(h) of this section.

- (d) The department will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or dangerous constituent specified in the permit under (a) of this subsection in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during detection monitoring.
- (e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.
- (f) The owner or operator must determine whether there is statistically significant evidence of contamination for any chemical parameter of dangerous constituent specified in the permit pursuant to (a) of this subsection at a frequency specified under (d) of this subsection.
- (i) In determining whether statistically significant evidence of contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. These method(s) must compare data collected at the compliance point(s) to the background ground water quality data.
- (ii) The owner or operator must determine whether there is statistically significant evidence of contamination at each monitoring well as the compliance point within a reasonable period of time after completion of sampling. The department will specify in the facility permit what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.
- (g) If the owner or operator determines pursuant to (f) of this subsection that there is statistically significant evidence of contamination for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she must:
- (i) Notify the department of this finding in writing within seven days. The notification must indicate what chemical parameters or dangerous constituents have shown statistically significant evidence of contamination:
- (ii) Immediately sample the ground water in all monitoring wells and determine whether constituents in the list of Appendix IX of 40 CFR Part 264 (which is adopted by reference) are present, and if so, in what concentration.
- (iii) For any Appendix IX compounds found in the analysis pursuant to (g)(ii) of this subsection, the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds found pursuant to (g)(ii) of this subsection, the dangerous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.
- (iv) Within ninety days, submit to the department an application for a permit modification to establish a compli-

- ance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:
- (A) An identification of the concentration or any Appendix IX constituent detected in the ground water at each monitoring well at the compliance point;
- (B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;
- (C) Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of subsection (10) of this section;
- (D) For each dangerous constituent detected at the compliance point, a proposed concentration limit under subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek an alternate concentration limit under subsection (5)(b) of this section; and
- (v) Within one hundred eighty days, submit to the department:
- (A) All data necessary to justify an alternate concentration limit sought under subsection (5)(b) of this section; and
- (B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of subsection (11) of this section unless:
- (I) All dangerous constituents identified under (g)(ii) of this subsection are listed in Table I of subsection (5) of this section and their concentrations do not exceed the respective values given in that Table; or
- (II) The owner or operator has sought an alternate concentration limit under subsection (5)(b) of this section for every dangerous constituent identified under (g)(ii) of this subsection.
- (vi) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant difference for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. The owner operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (g)(iv) of this subsection; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in (g)(iv) of this subsection unless the demonstration made under this subsection successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:
- (A) Notify the department in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he intends to make a demonstration under this subsection;
- (B) Within ninety days, submit a report to the department which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

- (C) Within ninety days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program facility; and
- (D) Continue to monitor in accordance with the detection monitoring program established under this section.
- (h) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he or she must, within ninety days, submit an application for a permit modification to make any appropriate changes to the program.
- (10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.
- (a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:
- (i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;
- (ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;
- (iii) The compliance point under subsection (6) of this section; and
- (iv) The compliance period under subsection (7) of this section.
- (b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.
- (c) The department will specify the sampling procedures and statistical methods appropriate for the constituents and the facility, consistent with subsection (8)(g) and (h) of this section.
- (i) The owner or operator must conduct a sampling program for each chemical parameter or dangerous constituent in accordance with subsection (8)(g) of this section.
- (ii) The owner or operator must record ground water analytical data as measured and in form necessary for the determination of statistical significance under subsection (8)(h) of this section for the compliance period of the facility.
- (d) The owner or operator must determine whether there is statistically significant evidence of increased contamination for any chemical parameter or dangerous constituent specified in the permit, pursuant to (a) of this subsection, at a frequency specified under (f) of this subsection.
- (i) In determining whether statistically significant evidence of increased contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. The method(s) must compare data collected at the compliance point(s) to a concentration limit developed in accordance with subsection (5) of this section.
- (ii) The owner or operator must determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit,

- after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.
- (e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.
- (f) The department will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during the compliance period of the facility.
- (g) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix IX of Part 264 at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in (f) of this subsection. If the owner or operator finds Appendix IX constituents in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix IX analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the department within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the department within seven days after completion of the initial analysis and add them to the monitoring list. If the owner or operator determines, pursuant to (d) of this subsection, that any concentration limits under subsection (5) of this section are being exceeded at any monitoring well at the point of compliance, he must:
- (i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;
- (ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:
- (A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;
- (B) The hydrogeological characteristics of the facility and of the surrounding land;
- (C) The rate of movement and direction of flow of the affected ground water;
- (D) The proximity to and withdrawal rates of ground water users downgradient; and

- (E) The current and future uses of ground water in the concerned area; and
- (iii) The application must at a minimum include the following information:
- (A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and
- (B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

#### (h) Reserved.

- (i) If the owner or operator determines, pursuant to (d) of this subsection, that the ground water concentration limits under this section are being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration under this subsection, the owner or operator must:
- (i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection:
- (ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;
- (iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and
- (iv) Continue to monitor in accord with the compliance monitoring program established under this section.
- (j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.
- (11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.
- (a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:
- (i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;
- (ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;
- (iii) The compliance point under subsection (6) of this section; and
- (iv) The compliance period under subsection (7) of this section.
- (b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place.

- The permit will specify the specific measures that will be taken.
- (c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.
- (d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.
- (e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary; and beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. For a facility seeking or required to have a permit, the corrective action measures to be taken must be specified in the permit.
- (i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.
- (ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.
- (f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water

monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

- (g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually.
- (h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.
  - (12) Use of the Model Toxics Control Act.
- (a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under WAC 173-303-645 using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.
- (b) Corrective action requirements imposed by an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of WAC 173-303-645 and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.
- (c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-646 Corrective action. (1) Purpose and applicability.

- (a) The provisions of this section establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.
- (b) The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.
- (c) The provisions of this section do not apply to cleanup-only facilities.
- (d) For purposes of this section, dangerous constituent means any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 Appendix IX, any constituent that caused a waste to be listed as a dangerous waste or to exhibit a dangerous characteristic under this chapter or to meet a dangerous waste criteria under this chapter, and any constituent that is within the meaning of "hazardous substance" under RCW 70.105D.020(7).
  - (2) Requirements.
- (a) The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste man-

- agement units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.
- (b) The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment. Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on site measures to address releases which have migrated beyond the facility boundary. Assurances of financial responsibility for such corrective action must be provided.
- (c) In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.
- (d) At a minimum, corrective actions must be consistent with the following requirements of chapter 173-340 WAC.
- (i) As necessary to select a cleanup action consistent with WAC 173-340-360, 173-340-350, state remedial investigation and feasibility study. Information that is adequate to support selection of a cleanup action consistent with WAC 173-340-360 but was developed under a different authority (for example, as part of closure under WAC 173-303-610 or as part of a federally overseen cleanup) may be used.
  - (ii) WAC 173-340-360, selection of cleanup actions.
  - (iii) WAC 173-340-400, cleanup actions.
- (iv) WAC 173-340-410, compliance monitoring requirements.
  - (v) WAC 173-340-420, periodic site reviews.
  - (vi) WAC 173-340-440, institutional controls.
- (vii) WAC 173-340-700 through 173-340-760, cleanup standards.
  - (3) Use of the Model Toxics Control Act.
- (a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under subsection (2) of this section using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.
- (b) Corrective action requirements imposed by the department in an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of subsection (2) of this section and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.
- (c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.
  - (4) Corrective action management unit (CAMU).

- (a) In accordance with the requirements of this subsection, the director may designate an area at a facility as a corrective action management unit for the purpose of treating, storing or disposing of remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. Placement of dangerous remediation waste into or within a CAMU does not constitute land disposal of dangerous waste. Consolidation or placement of dangerous remediation waste into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.
- (b) Designation of a CAMU will not in any way affect the department's existing authorities, including authority under chapter 70.105D RCW, to address clean-up levels, media-specific points of compliance, or other remedy selection decisions.
- (c) Designation of a CAMU will not in any way affect the timing or scope of review of any actions taken under the Model Toxics Control Act pursuant to subsection (3) of this section to fulfill the corrective action requirements of subsection (2) of this section or the corrective action requirements of WAC 173-303-645.
  - (5) Designation of a corrective action management unit.
- (a) When designating a CAMU, the director will do so in accordance with subsection (4) of this section, and the following:
- (i) The CAMU will facilitate the implementation of reliable, effective, protective, and cost-effective remedies;
- (ii) Waste management activities associated with the CAMU will not create unacceptable risks to humans or the environment resulting from exposure to dangerous wastes or dangerous constituents;
- (iii) The CAMU will include uncontaminated areas of the facility only if including such areas for the purposes of managing remediation wastes is more protective than management of such wastes at contaminated areas of the facility;
- (iv) Areas within the CAMU where wastes remain in place after closure of the CAMU, will be managed and contained so as to minimize future releases of dangerous wastes and dangerous constituents to the extent practicable;
- (v) When appropriate and practicable, the CAMU will expedite the timing of remedial activity implementation;
- (vi) The CAMU will enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and
- (vii) The CAMU will, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.
- (b) When designating a CAMU, the director will specify requirements for the CAMU including the following:
  - (i) The areal configuration of the CAMU;
- (ii) Requirements for remediation waste management within the CAMU including specification of applicable design, operation, and closure requirements;
- (iii) Requirements for ground water and/or vadose zone monitoring that are sufficient to:

- (A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of dangerous waste and dangerous constituents in ground water from sources located within the CAMU; and
- (B) Detect and subsequently characterize releases of dangerous waste and dangerous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after CAMU closure.
- (iv) Requirements for closure that will minimize the need for further maintenance of the CAMU and will include, as appropriate and deemed necessary by the director, the following:
- (A) Requirements for excavation, removal, treatment, and/or containment of wastes:
- (B) For areas in which wastes will remain after closure of the CAMU, requirements for capping of such areas; and
- (C) Requirements for removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.
- (c) In establishing closure requirements for CAMUs under (b)(iv) of this subsection the director will consider the following factors:
  - (i) CAMU characteristics;
- (ii) Volume of wastes which will remain in place after CAMU closure;
  - (iii) Potential for releases from the CAMU;
  - (iv) Physical and chemical characteristics of the waste;
- (v) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases in and/or from the CAMU;
   and
- (vi) Potential for exposure of humans and environmental receptors if releases were to occur at or from the CAMU.
- (d) The director will, for areas of the CAMU in which wastes will remain in place after CAMU closure, specify post-closure requirements to control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, and dangerous waste decomposition products to the ground, to ground waters, to surface waters, and to the atmosphere. Such post-closure requirements will include, as necessary to protect human health and the environment, monitoring and maintenance activities and the frequency with which such activities will be performed to ensure the integrity of any cap, final cover, or other containment system.
- (e) The owner/operator of a facility must provide sufficient information to enable the director to designate a CAMU in accordance with the criteria in subsections (4), (5)(a) through (d), and (6) of this section.
- (f) The director will document the rationale for designating CAMUs and will make such documentation available to the public.
- (g) Incorporation of the designation of and requirements for a CAMU into a existing permit must be approved by the director according to the procedures for agency initiated permit modifications under WAC 173-303-830(3), or according to the permit modification procedures of WAC 173-303-830(4).
  - (6) Incorporation of a regulated unit within a CAMU.

- (a) The director may designate a regulated unit (as defined in WAC 173-303-040) as a CAMU, or may incorporate a regulated unit into a CAMU, if:
- (i) The regulated unit is closed or closing, meaning it has begun the closure process under WAC 173-303-610 or 173-303-400; and
- (ii) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions at the facility.
- (b) The requirements of WAC 173-303-610, 173-303-620, 173-303-645, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.
  - (7) Temporary units (TUs).
- (a) In accordance with the requirements of this subsection, the director may designate a tank or container storage area at a facility as a temporary unit for the purpose of treating or storing remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. The director may replace the design, operating and closure standards applicable to dangerous waste tank and container treatment and storage units under this chapter with alternative requirements that protect human health and the environment.
- (b) Any temporary unit to which alternative requirements are applied in accordance with (a) of this subsection will be:
  - (i) Located within the facility boundary; and
- (ii) Used only for treatment or storage of remediation wastes managed pursuant to implementation of the corrective action requirements of subsection (2) of this section at the facility.
- (c) In establishing standards to be applied to a temporary unit, the director will consider the following factors:
  - (i) Length of time unit will be in operation;
  - (ii) Type of unit;
  - (iii) Volumes of wastes to be managed;
- (iv) Physical and chemical characteristics of the wastes to be managed in the unit;
  - (v) Potential for releases from the unit;
- (vi) Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential releases; and
- (vii) Potential for exposure of humans and environmental receptors if releases were to occur from the unit.
- (d) The director will specify the length of time, not to exceed one year, a temporary unit will be allowed to operate. The director will also specify design, operating, and closure requirements for the temporary unit.
- (e) The director may extend the operating period of a temporary unit for up to one additional year, provided the director determines that:
- (i) Continued operation of the unit will not pose a threat to human health and the environment; and
- (ii) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

- (f) Incorporation of the designation of and requirements for a temporary unit or a time extension for a temporary unit into an existing permit will be:
- (i) Approved in accordance with the procedures for agency-initiated permit modifications under WAC 173-303-830(3); or
- (ii) Requested by the owner or operator as a Class II modification according to the procedures under WAC 173-303-830(4).
- (g) The director will document the rationale for designating a temporary unit and for granting time extensions for temporary units and will make such documentation available to the public.
- (8) Staging piles. The requirements for staging piles in 40 CFR Part 264.554 are incorporated by reference. The word "director" in 40 CFR means "department."

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

### WAC 173-303-690 Air emission standards for process vents. (1) Applicability.

- (a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.
- (b) Except for 40 CFR 264.1034(d) and (e), this section applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:
- (i) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or
- (ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a hazardous waste recycling unit that is not a ninety-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or
- (iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.
- (c) For the owner and operator of a facility subject to this section and who received a final hazardous waste permit prior to December 6, 1996, the requirements of this section must be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806(11). Until such date when the owner and operator receives a final permit incorporating the requirements of this section, the owner and operator is subject to the requirements of 40 CFR 265 Subpart AA.

Note: The requirements of 40 CFR Parts 264.1032 through 264.1036 apply to process vents on hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

- (d) The requirements of this section do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this section are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 CFR Part 60, Part 61, or Part 63. The documentation of compliance under regulations at 40 CFR Part 60, Part 61, or Part 63 must be kept with, or made readily available with, the facility operating record.
- (2) 40 CFR 264.1031 through 1036 (Subpart AA) is incorporated by reference.

Note: Where the incorporated language refers to 264.1030, refer to subsection (1) of this section. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

### WAC 173-303-691 Air emission standards for equipment leaks. (1) Applicability.

- (a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.
- (b) Except as provided in 40 CFR 264.1064(k), this section applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:
- (i) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or
- (ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a hazardous waste recycling unit that is not a "ninety-day" tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or
- (iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.
- (c) ((Iff)) For the owner or operator of ((equipment)) a facility subject to the requirements of 40 CFR 264.1052 through 264.1065 ((has)) and who received a final permit under section 3005 of RCRA prior to December ((21, 1990)) 6, 1996, the requirements of 40 CFR 264.1052 through 264.1065 must be incorporated into the permit when the permit is reissued under WAC 173-303-840(8) or reviewed under WAC 173-303-806(11). Until such date when the owner or operator receives a final permit incorporating the requirements of 40 CFR 264.1052 through 264.1065, the owner or operator is subject to the requirements of 40 CFR 265, Subpart BB, which is incorporated by reference at WAC 173-303-400 (3)(a).
- (d) Each piece of equipment to which this section applies must be marked in such a manner that it can be distinguished readily from other pieces of equipment.

- (e) Equipment that is in vacuum service is excluded from the requirements of 40 CFR 264.1052 to 264.1060 if it is identified as required in 40 CFR 264.1064 (g)(5).
- (f) Equipment that contains or contacts hazardous waste with an organic concentration of at least ten percent by weight for less than three hundred hours per calendar year is excluded from the requirements of 40 CFR Parts 264.1052 through 264.1060 if it is identified, as required in 40 CFR Part 264.1064 (g)(6).

Note: The requirements of 40 CFR Parts 264.1052 through 264.1065 apply to equipment associated with hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(2) 40 CFR 264.1051 through 1065 (Subpart BB) is incorporated by reference.

Note: Where the incorporated language refers to 264.1050, refer to WAC 173-303-691. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

### WAC 173-303-692 Air emission standards for tanks, surface impoundments, and containers. (1) Applicability.

- (a) The requirements of 40 CFR Part 264 Subpart CC apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either WAC 173-303-630, 173-303-640, or 173-303-650 except as WAC 173-303-600 and (b) of this subsection provide otherwise.
- (b) The requirements of 40 CFR Part 264 Subpart CC do not apply to the following waste management units at the facility:
- (i) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after December 6, 1996.
- (ii) A container that has a design capacity less than or equal to 0.1 m<sup>3</sup>.
- (iii) A tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.
- (iv) A surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.
- (v) A waste management unit that is used solely for onsite treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required under the corrective action authorities of WAC 173-303-646, or RCRA section 3008(h), or CERCLA authorities.
- (vi) A waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act.
- (vii) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emis-

sion controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR Parts 60, 61, or 63. For the purpose of complying with this paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of 40 CFR Part 264.1084(i), except as provided in 40 CFR Part 264.1082 (c)(5).

(viii) A tank that has a process vent as defined in 40 CFR Part 264.1031.

- (c) For the owner and operator of a facility subject to this section who received a final permit under the Hazardous Waste Management Act prior to December 6, 1996, the requirements of 40 CFR Part 264 Subpart CC will be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806 (11)(d), the owner and operator is subject to the requirements of 40 CFR Part 265 Subpart CC, which is incorporated by reference at WAC 173-303-400 (3)(a).
- (d) The requirements of 40 CFR Part 264 Subpart CC, except for the recordkeeping requirements specified in 40 CFR Part 264.1089(i), are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:
- (i) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent —O—O—structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.
- (ii) The owner or operator prepares documentation, in accordance with the requirements of 40 CFR Part 264.1089(i) explaining why an undue safety hazard would be created if air emission controls specified in 40 CFR Parts 264.1084 through 264.1087 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of (d)(i) of this subsection.
- (iii) The owner or operator notifies the department in writing that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of (d)(i) of this subsection are managed at the facility in tanks or containers meeting the conditions of (d)(ii) of this subsection. The notification must state the name and address of the facility, and must be signed and dated by an authorized representative of the facility owner or operator.

### (2) 40 CFR Parts 264.1081 through 264.1091 (Subpart CC) is incorporated by reference.

Note: Where the incorporated language refers to ((264.1050)) 264.1080, refer to WAC ((473.303.694)) 173.303.692. Where the incorporated language refers to Part 270, refer to WAC 173.303.800 through 173.303.840.

(3) References within 40 CFR Part 264 Subpart CC to the following parts are incorporated by reference: 40 CFR Parts 60, 61, and 63. This includes Method 25E - Determination of Vapor Phase Organic Concentration in Waste Samples at 40 CFR Part 60 Appendix A.

<u>AMENDATORY SECTION</u> (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

- (a) Final status TSD facilities; and
- (b) Certain recycling facilities that are not exempt from the permit requirements.
- (2)(a) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit must complete, sign, and submit an application to the department. An application must consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section. The requirements for the contents of a part A permit application are at WAC 173-303-803(4).
- (b) Persons covered by permits by rule (WAC 173-303-802) need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in WAC 173-303-804. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in WAC 173-303-809.
- (3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.
- (4) Contents of Part B. Part B of a permit application must consist of the information required in (a) through (m) of this subsection.

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- (a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B must be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies must be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.
  - (i) A general description of the facility.
- (ii) Chemical, biological, and physical analyses of the dangerous waste and hazardous debris to be handled at the facility. At a minimum, these analyses must contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.
- (iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).
- (iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.
- (v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4)(a)(i) and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), 173-303-670(7), and 173-303-680(3), and 40 CFR 264.1033, 264.1035, 264.1052, 264.1053, 264.1058, 264.1064, 264.1067, 264.1084, 264.1085, 264.1086, and 264.1088.
- (vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340, or a description of the procedures used to comply with these requirements.
- (vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(7), 173-303-650(5) and 173-303-660(6).
- (viii) A description of procedures, structures, or equipment used at the facility to:
- (A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);
- (B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);
  - (C) Prevent contamination of water supplies;

- (D) Mitigate effects of equipment failure and power outages;
- (E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing); and
  - (F) Prevent releases to the atmosphere.
- (ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).
- (x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).
- (xi) Seismic risk consideration. The owner/operator of a proposed facility or expansion of an existing facility must identify the seismic risk zone in which the facility is intended to be located. Where state or local maps are not available, United States Geological Survey Open File Report number 82-1033 may be used to identify seismic risk zones. The owner/operator must demonstrate that the facility can and will be designed to resist seismic ground motion and that the design is sufficient to withstand the maximum horizontal acceleration of a design earthquake specified in the demonstration.
- (xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).
- (xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680 (2) and (4).
- (xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.
- (xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.
- (xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.
- (xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility,

documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:

- (A) Map scale and date;
- (B) One hundred-year floodplain area;
- (C) Surface waters including intermittent streams;
- (D) Surrounding land uses (residential, commercial, agricultural, recreational);
- (E) A wind rose (i.e., prevailing windspeed and direction);
  - (F) Orientation of the map (north arrow);
  - (G) Legal boundaries of the TSD facility site;
  - (H) Access control (fences, gates);
- (I) Injection and withdrawal wells both on-site and off-site;
- (J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
  - (K) Barriers for drainage or flood control; and
- (L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).
- (Note For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)
- (xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.
- (xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste facilities containing a regulated unit except as otherwise provided in WAC 173-303-645 (1)(b):
- (A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;
- (B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

- (C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;
- (D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:
- (I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;
- (II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in Appendix IX of 40 CFR Part 264, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);
- (E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);
- (F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):
- (I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;
  - (II) A proposed ground water monitoring system;
- (III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and
- (IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;
- (G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:
- (I) A description of the wastes previously handled at the facility;
- (II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

- (III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);
- (IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;
- (V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and
- (VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and
- (H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:
- (I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters:
- (II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);
- (III) Detailed plans and an engineering report describing the corrective action to be taken;
- (IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and
- (V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.
- (xxi) Contingent ground water protection program. The following actions are required for owners or operators of proposed land-based facilities and may be required for owners/ operators of existing land-based facilities, except as provided in WAC 173-303-645 (1)(b).
- (A) Contingent ground water protection program. The owner or operator must develop a contingent ground water protection program. The purpose of this program will be to prevent the migration of dangerous waste or dangerous waste

- constituents from waste management units to the nearest hydraulically downgradient receptor at any time during the life of the facility. For the purposes of this subsection, the downgradient receptor will be the facility property line, perennial surface water or domestic well, whichever is nearest to the dangerous waste management unit. The contingent ground water protection program must at a minimum:
- (I) Define the local and regional hydrogeologic characteristics. The contingent ground water protection program must be based on a sufficient understanding of site geology, hydrology, and other factors to allow evaluation of its adequacy by the department. Site characterization must be performed in sufficient detail to provide, at a minimum, the following information: Site geostratigraphy; site hydrostratigraphy; identification of aquifers, aquitards, and aquicludes; flow models for each stratum (i.e., porus media or fracture flow); the distribution of vertical and horizontal hydraulic conductivity; effective porosity; horizontal and vertical hydraulic gradients; ground water travel time to receptors; and heterogeneity for each stratigraphic unit. Site interpretative models must include ranges of tested values: The provisions of WAC 173-303-806 (4)(a)(xx) and 173-303-645, must be used as guidance in the development of the contingent ground water protection program.
- (II) Identify the range of potential release scenarios that could occur during facility operation and the post-closure care period. The scenarios must incorporate the intended design(s) of the dangerous waste management unit(s), wastes to be placed in the dangerous waste management unit(s), waste and leachate chemistry, waste, and soil and rock geochemical interactions, and the results of site characterization pursuant to WAC 173-303-806 (4)(a)(xx) and (xxi);
- (III) Include specific physical action to be taken if dangerous waste or dangerous waste constituents are detected in one or more of the monitoring wells. The physical actions must be based upon engineering feasibility studies describing remedial actions established from site specific conditions and waste features. Such actions may include installation of a pump and treat system between the monitoring well and the receptor or installation of a section of slurry wall to decrease ground water travel times. The description of the systems must also provide how the remediation system will achieve cleanup, its efficiency, and the timeframes involved;
- (IV) Incorporate the design, construction, and sampling methods outlined in WAC 173-303-645 (8)(c), (d), (e), (f), and (g);
- (V) Demonstrate to the satisfaction of the department that the owner/operator of the dangerous waste management facility has the financial capability to implement the proposed ground water protection plan; and
  - (VI) Include reporting procedures to the department.
- (B) The response actions identified in WAC 173-303-806 (4)(a)(xxi)(A)(III) must be activated if the presence of dangerous waste or dangerous waste constituents have been detected at the point of compliance in accordance with WAC 173-303-645 (9)(g), and must continue until the concentration of dangerous waste or dangerous waste constituents under WAC 173-303-645(4) are reduced to levels below their respective concentration limits specified in WAC 173-303-645(5).

- (C) If the owner/operator does not demonstrate that the ground water protection program will prevent the migration of dangerous waste or its constituents to the nearest receptor, the department will require corrections to be made in the protection program, increase setbacks from the nearest receptor, or deny the permit.
- (xxii) Additional requirements for incineration facilities. The following actions regarding the protection of human health and the environment must be taken by owners/operators of proposed hazardous waste incineration facilities and may be required for owners or operators of existing incineration facilities.
- (A) Ambient monitoring program. The owner/operator will be required to develop an ambient monitoring program. The purpose of this ambient monitoring program will be to: Gather baseline environmental information characterizing on-site and off-site environmental conditions prior to facility operation; and, to identify and measure changes in the environment which may be linked to the construction and operation of the facility. The ambient monitoring program must, at a minimum:
- (I) Include a characterization of facility emission sources and pathways of contaminant transport.
- (II) Characterize local and regional ecosystems, including agricultural, and their sensitivity to the potential contaminants from the facility.
- (III) Incorporate the findings of the environmental impact statement's health risk assessment and/or other assessments specific to the proposal or available to the scientific community regarding emissions from dangerous waste management facilities and their potential human health and environmental effects.
- (IV) Identify sensitive indicator plants and animals for biomonitoring, identify specific chemical constituents of concern, sampling locations, sampling frequency, sampling and analytical methods, chain of custody procedures, quality assurance/quality control procedures, reporting times, recordkeeping procedures, and data evaluation procedures.
- (B) Environmental review procedures. The owner/ operator must establish procedures to allow for public review of facility operation and all monitoring data required by the facility's permit. In developing this process, the owner/ operator must, at a minimum:
- (I) Coordinate this effort with the public and interested local organizations;
- (II) Identify the informational needs of the community and develop a public information process which meets these needs: and
- (III) Develop procedures allowing full access by the public to all monitoring data required by the permit.
- (C) Impact mitigation plan. Prior to the department issuing a permit, the owner/operator must submit an impact mitigation plan which demonstrates to the satisfaction of the department that the owner/operator will mitigate all probable significant adverse impacts, including economic, due to facility location and operations. The owner/operator must use as a basis for identifying probable significant adverse economic impacts those probable economic impacts identified during a public review process, such as the environmental impact statement scoping process, if applicable.

The plan must include, but is not limited to, a description of what the owner/operator will do to reduce or prevent any probable significant impacts before they occur, to mitigate such impacts should they occur, and to ensure the owner/operator has and will have the financial capability to implement such preventative and mitigative measures. Mitigation measures may include, as an element, financial compensation to adversely affected parties.

This plan may be submitted with environmental reports the department requires for compliance with the State Environmental Policy Act, with the written citizen proponent negotiation report and agreements, or with the Part B permit application. If the plan does not demonstrate that the owner/operator is capable of adequately mitigating the identified probable significant adverse economic impacts, the department will require modification of the plan or of the proposed facility location, or will deny the permit application. The department must be satisfied with the plan prior to the issuance of the permit.

- (xxiii) Information requirements for solid waste management units.
- (A) The following information is required for each solid waste management unit:
- (I) The location of the unit on the topographic map required under (a)(xviii) of this subsection.
  - (II) Designation of type of unit.
- (III) General dimensions and structural description (supply any available drawings).
  - (IV) Time frame over which the unit was operated.
- (V) Specification of all wastes that have been managed in the unit, to the extent available.
- (B) The owner/operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of dangerous wastes or dangerous constituents from such unit or units.
- (C) The owner/operator must conduct and provide the results of sampling and analysis of ground water, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the department determines it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

WAC 173-303-806 (4)(a)(xxiv):

- (xxiv) Information requirements for known releases.
- (A) In order to provide for corrective action necessary to protect human health and the environment, the following information is required for all known significant releases of dangerous waste and dangerous constituents (as defined by WAC 173-303-646 (2)(c)) at, and from, the facility. A significant release is a release which has affected or has the potential to affect human health or the environment at or beyond the facility.
- (I) The location of the release on the topographic map required under (a)(xviii) of this subsection.
- (II) General dimensions of the release and any relevant structural description. For example, if the release is from a storage tank, provide a structural description of the tank. Supply any available drawings.
  - (III) Time frame over which the release occurred.

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- (IV) Specification of all dangerous waste or dangerous constituents (as defined by WAC 173-303-646 (2)(c)) present in the release, to the extent available.
- (xxv) A summary of the preapplication meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under WAC 173-303-281 (3)(c).
- (xxvi) For land disposal facilities, if a case-by-case extension has been approved under 40 CFR 268.5 or a petition has been approved under 40 CFR 268.6, a copy of the notice of approval for the extension or petition is required.
- (b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:
- (i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:
- (A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;
- (B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;
- (C) Capacity of the containment system relative to the volume of the largest container to be stored;
  - (D) Provisions for preventing or managing run-on;
- (E) How accumulated liquids can be analyzed and removed to prevent overflow; and
- (F) A description of the building or other protective covering for EHW containers;
- (ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:
- (A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and
- (B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;
- (iii) A description of the procedures for labeling containers;
- (iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable;
- (v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c); and
- (vi) Information on air emission control equipment as required in (m) of this subsection.
- (c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:
- (i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as

- to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);
  - (ii) Dimensions and capacity of each tank;
- (iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);
- (iv) A diagram of piping, instrumentation, and process flow for each tank system;
- (v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);
- (vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);
- (vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);
- (viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):
- (A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the ground water or surface water during the life of the facility; or
- (B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.
- (ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);
- (x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);
- (xi) A description of the marking and/or labeling of tanks;
- (xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW; and
- (xiii) Information on air emission control equipment as required in (m) of this subsection.
- (d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:
- (i) A list of the dangerous wastes placed or to be placed in each surface impoundment;
- (ii) Detailed plans and an engineering report describing how the surface impoundment is designed, and is or will be constructed, operated and maintained to meet the requirements of WAC 173-303-650 (2)(j), (10), (11), and 173-303-335, addressing the following items:
- (A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If

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an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

- (B) Prevention of overtopping;
- (C) Structural integrity of dikes;
- (D) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of WAC 173-303-650 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-650 (2)(k), (l), or (m), submit appropriate information;
- (E) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;
- (F) The construction quality assurance (CQA) plan if required under WAC 173-303-335; and
- (G) Proposed action leakage rate, with rationale, if required under WAC 173-303-650(10), and response action plan, if required under WAC 173-303-650(11).
  - (iii) Reserve.
- (iv) A description of how each surface impoundment, including the double liner system, leak detection system, cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a), (b), and (d). This information should be included in the inspection plan submitted under (a)(v) of this subsection;
- (v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;
- (vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;
- (vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;
- (viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;
- (ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with;

- (x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9); and
- (xi) Information on air emission control equipment as required in (m) of this subsection.
- (e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:
- (i) A list of dangerous wastes placed or to be placed in each waste pile;
- (ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;
- (iii) Detailed plans and an engineering report describing how the waste pile is designed, and is or will be constructed, operated, and maintained to meet the requirements of WAC 173-303-335, 173-303-660 (2)(j), (11) and (12), addressing the following items:
- (A)(I) The liner system (except for an existing portion of a pile) if the waste pile must meet the requirements of WAC 173-303-660(2), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;
- (II) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of WAC 173-303-660 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-660 (2)(k), (l), or (m), submit appropriate information;
- (III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;
- (IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;
- (V) Proposed action leakage rate, with rationale, if required under WAC 173-303-660(3), and response action plan, if required under WAC 173-303-660(4);
  - (B) Control of run-on;
  - (C) Control of run-off;
- (D) Management of collection and holding units associated with run-on and run-off control systems; and
- (E) Control of wind dispersal of particulate matter, where applicable;
  - (iv) Reserve.
- (v) A description of how each waste pile, including the double liner system, leachate collection and removal system,

leak detection system, cover system and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

- (vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;
- (vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;
- (viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;
- (ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;
- (x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).
- (f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.
- (i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):
- (A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or
- (B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or
- (C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or
- (D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

- (ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.
- (iii) In lieu of a trial burn, the applicant may submit the following information;
- (A) An analysis of each waste or mixture of wastes to be burned including:
- (I) Heating value of the waste in the form and composition in which it will be burned;
- (II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;
- (III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110 (3)(a), or their equivalent;
- (IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110 (3)(a); and
- (V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4):
- (B) A detailed engineering description of the incinerator, including:
- (I) Manufacturer's name and model number of incinerator;
  - (II) Type of incinerator;
- (III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;
  - (IV) Description of auxiliary fuel system (type/feed);
  - (V) Capacity of prime mover;
- (VI) Description of automatic waste feed cutoff system(s);
- (VII) Stack gas monitoring and pollution control monitoring system;
  - (VIII) Nozzle and burner design;
  - (IX) Construction materials; and
- (X) Location and description of temperature, pressure, and flow indicating devices and control devices;
- (C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;
- (D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

- (E) A description of the results submitted from any previously conducted trial burn(s) including:
- (I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and
- (II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);
- (F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:
- (I) Expected carbon monoxide (CO) level in the stack exhaust gas;
  - (II) Waste feed rate;
  - (III) Combustion zone temperature;
  - (IV) Indication of combustion gas velocity;
- (V) Expected stack gas volume, flow rate, and temperature;
- (VI) Computed residence time for waste in the combustion zone;
  - (VII) Expected hydrochloric acid removal efficiency;
- (VIII) Expected fugitive emissions and their control procedures; and
- (IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;
- (G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;
- (H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and
- (I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:
  - (I) Incinerator ash residues, if any; and
  - (II) Residues from the air pollution control devices.
- (iv) The department will approve a permit application without a trial burn if the department finds that:
  - (A) The wastes are sufficiently similar; and
- (B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.
- (g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:
- (i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:
- (A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;
- (B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);
- (C) Any specific laboratory or field test that will be conducted, including:

- (I) The type of test (e.g., column leaching, degradation);
- (II) Materials and methods, including analytical procedures;
  - (III) Expected time for completion; and
- (IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;
- (ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:
  - (A) The wastes to be land treated;
- (B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:
  - (I) Waste application method and rate;
  - (II) Measures to control soil pH;
- (III) Enhancement of microbial or chemical reactions; and
  - (IV) Control of moisture content;
- (C) Provisions for unsaturated zone monitoring, including:
  - (I) Sampling equipment, procedures, and frequency;
  - (II) Procedures for selecting sampling locations;
  - (III) Analytical procedures;
  - (IV) Chain of custody control;
  - (V) Procedures for establishing background values;
  - (VI) Statistical methods for interpreting results; and
- (VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);
- (D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;
  - (E) The proposed dimensions of the treatment zone;
- (iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:
  - (A) Control of run-on;
  - (B) Collection and control of run-off;
- (C) Minimization of run-off of dangerous constituents from the treatment zone;
- (D) Management of collection and holding facilities associated with run-on and run-off control systems;
- (E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and
- (F) Control of wind dispersal of particulate matter, if applicable;
- (iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:
- (A) Characteristics of the food-chain crop for which the demonstration will be made;

- (B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration:
- (C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;
- (D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and
- (E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;
- (v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;
- (vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and
- (vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.
- (viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).
- (h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information:
- (i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;
- (ii) Detailed plans and an engineering report describing how the landfill is designed, and is or will be constructed, operated and maintained to comply with the requirements of WAC 173-303-335, 173-303-665 (2), (8) and (9) addressing the following items:
- (A)(I) The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of WAC 173-303-665 (2)(a), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time:
- (II) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of WAC 173-303-665 (2)(h). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought

- as provided by WAC 173-303-665 (2)(j), (k) or (l), submit appropriate information;
- (III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;
- (IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;
- (V) Proposed action leakage rate, with rationale, if required under WAC 173-303-665(8), and response action plan, if required under 173-303-665(9);
  - (B) Control of run-on;
  - (C) Control of run-off;
- (D) Management of collection and holding facilities associated with run-on and run-off control systems; and
- (E) Control of wind dispersal of particulate matter, where applicable;
  - (iii) Reserve.
- (iv) A description of how each landfill, including the double liner system, leachate collection and removal system, cover systems, and appurtenances for control for run-on and run-off will be inspected in order to meet the requirements of WAC 173-303-665(4). This information must be included in the inspection plan submitted under (a)(v) of this subsection;
- (v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;
- (vi) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(7) will be complied with;
- (vii) A description of how each landfill will be designed and operated in order to comply with WAC 173-303-140.
- (i) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in WAC 173-303-680(1), owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units must provide the following additional information:
- (i) A detailed description of the unit being used or proposed for use, including the following:
- (A) Physical characteristics, materials of construction, and dimensions of the unit:
- (B) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of WAC 173-303-680 (2) and (3); and
- (C) For disposal units, a detailed description of the plans to comply with the post-closure requirements of WAC 173-303-680(4).
- (ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of WAC 173-303-680(2). If the applicant can demonstrate that he does not violate the environmental performance standards

of WAC 173-303-680(2) and the department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

- (iii) Information on the potential pathways of exposure of humans or environmental receptors to dangerous waste or dangerous constituents and on the potential magnitude and nature of such exposures.
- (iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.
- (v) Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of WAC 173-303-680(2).
- (j) Specific Part B information requirements for process vents. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have process vents to which WAC 173-303-690 applies must provide the following additional information:
- (i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-690 on the effective date that the facility becomes subject to the provisions of WAC 173-303-690 or 40 CFR 265 Subpart AA incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR section 264.1033 (a)(2).
- (ii) Documentation of compliance with the process vent standards in 40 CFR section 264.1032, including:
- (A) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the dangerous waste management units on a facility plot plan).
- (B) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.
- (C) Information and data used to determine whether or not a process vent is subject to the requirements of 40 CFR section 264.1032.
- (iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of 40 CFR 264.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR 264.1035 (b)(3).
- (iv) Documentation of compliance with 40 CFR 264.1033, including:
- (A) A list of all information references and sources used in preparing the documentation.

- (B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(k).
- (C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035 (b)(4)(iii).
- (D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.
- (E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 40 CFR 264.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.
- (k) Specific Part B information requirements for equipment leaks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have equipment to which WAC 173-303-691 applies must provide the following additional information:
- (i) For each piece of equipment to which WAC 173-303-691 applies:
- (A) Equipment identification number and dangerous waste management unit identification.
- (B) Approximate locations within the facility (e.g., identify the dangerous waste management unit on a facility plot plan).
  - (C) Type of equipment (e.g., a pump or pipeline valve).
- (D) Percent by weight total organics in the hazardous waste stream at the equipment.
- (E) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).
- (F) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").
- (ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-691 on the effective date that the facility becomes subject to the provisions of WAC 173-303-691 or 40 CFR Part 265 Subpart BB incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR 264.1033 (a)(2).
- (iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR section 264.1035 (b)(3).

- (iv) Documentation that demonstrates compliance with the equipment standards in 40 CFR sections 264.1052 to 264.1059. This documentation will contain the records required under 40 CFR 264.1064. The department may request further documentation before deciding if compliance has been demonstrated.
- (v) Documentation to demonstrate compliance with 40 CFR section 264.1060 will include the following information:
- (A) A list of all information references and sources used in preparing the documentation.
- (B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(j).
- (C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035 (b)(4)(iii).
- (D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is operating at the highest load or capacity level reasonably expected to occur.
- (E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.
- (l) Special Part B information requirements for drip pads.

Except as otherwise provided by WAC 173-303-600(3), owners and operators of dangerous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

- (i) A list of hazardous wastes placed or to be placed on each drip pad.
- (ii) If an exemption is sought to WAC 173-303-645, as provided by WAC 173-303-645(1), detailed plans and an engineering report describing how the requirements of WAC 173-303-645 (1)(b) will be met.
- (iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-675(4), including the as-built drawings and specifications. This submission must address the following items as specified in WAC 173-303-675(2):
  - (A) The design characteristics of the drip pad;
  - (B) The liner system;
- (C) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;
  - (D) Practices designed to maintain drip pads;
  - (E) The associated collection system;
  - (F) Control of run-on to the drip pad;
  - (G) Control of run-off from the drip pad;

- (H) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;
- (I) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.
- (J) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;
- (K) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;
- (L) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;
- (M) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.
- (N) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-675(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection.
- (O) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of WAC 173-303-675 (4)(a) through (f).
- (P) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under WAC 173-303-675 (6)(a). For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665(6) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection.
- (m) Specific Part B information requirements for air emission controls for tanks, surface impoundments, and containers (Subpart CC) at 40 CFR Part 270.27 are incorporated by reference.
- (5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.
- (6) Reapplications. Any dangerous waste facility with an effective final facility permit must submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date

provided that such date will never be later than the expiration date of the effective permit.

Note: See public notice requirements at WAC 173-303-281(5).

- (7) Continuation of expiring permits.
- (a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.
- (b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:
- (i) Initiate enforcement action based upon the permit which has been continued;
- (ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
- (iii) Issue a new permit with appropriate conditions; and/or
  - (iv) Take other actions authorized by this chapter.
- (8) Completeness. The department will not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit will be judged independently of the status of any other permit application or permit for the same facility or activity. The department may deny a permit for the active life of a dangerous waste management facility or unit before receiving a complete application for a permit.
- (9) Recordkeeping. Applicants must keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.
- (10) General permit conditions. All final facility permits will contain general permit conditions described in WAC 173-303-810.
  - (11) Permit duration.
- (a) Final facility permits will be effective for a fixed term not to exceed ten years.
- (b) The department may issue any final facility permit for a duration that is less than the full allowable term.
- (c) The term of a final facility permit will not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.
- (d) Each permit for a land disposal facility will be reviewed by the department five years after the date of permit issuance or reissuance and will be modified as necessary, as provided in WAC 173-303-830(3).
  - (12) Reserve.
- (13) Grounds for denial. A permit application will be denied pursuant to the procedures in WAC 173-303-840 if it is determined that the proposed location and/or activity endangers public health and the environment as demonstrated

- by the permit applicant's failure to satisfy the performance standards of WAC 173-303-283.
- (14) Permit changes. All final facility permits will be subject to the requirements of permit changes, WAC 173-303-830.
- (15) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.
- (16) Other requirements for final recycling facility permits. In lieu of issuing a final recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

- WAC 173-303-830 Permit changes. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the director. This section does not apply to permits by rule or interim status permits.
  - (2) Transfer of permits.
- (a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under (b) of this subsection or subsection (3) of this section) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate act.
- (b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the director in accordance with subsection (4) of this section. The new owner or operator must submit a revised permit application no later than ninety days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the director. When a transfer of ownership or operational control occurs, the old owner or operator must comply with the requirements of WAC 173-303-620 (Financial requirements) until the new owner or operator has demonstrated that he or she is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the director by the new owner or operator of compliance with the financial requirements, the director will notify the old owner or operator that he or she no longer needs to comply with the financial requirements as of the date of demonstration.
- (3) Modification or revocation and reissuance of permits. When the director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for revocation and reissuance, or conducts a review of the permit

file), the director may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the director may modify or revoke and reissue the permit accordingly, subject to the limitations of (c) of this subsection, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. All other aspects of the existing permit remain in effect for the duration of the unmodified permit. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. During any revocation and reissuance proceeding, the permittee must comply with all conditions of the existing permit until a new final permit is reissued. If cause does not exist under this subsection, the director will not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the director will approve or deny the request according to the procedures of subsection (4) of this section. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

- (a) Causes for modification. The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees:
- (i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;
- (ii) Information. Permits may be modified during their terms if the director receives information that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance;
- (iii) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through adoption of new or amended standards or regulations or by judicial decision after the permit was issued.
- (iv) Compliance schedules. The director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;
- (v) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the director under 173-303-806 (11)(d), the director will modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this chapter.
- (b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:
- (i) Cause exists for termination under WAC 173-303-830(5) for final facility permits, and the director determines that modification or revocation and reissuance is appropriate; or

- (ii) The director has received notification of a proposed transfer of the permit.
  - (c) Reserve.
  - (4) Permit modification at the request of the permittee.
  - (a) Class 1 modifications.
- (i) Except as provided in (a)(ii) of this subsection, the permittee may put into effect Class 1 modifications listed in Appendix I of this section under the following conditions:
- (A) The permittee must notify the director concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.
- (B) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the director in accordance with WAC 173-303-840 (3)(e)(i)(D), and the appropriate units of state and local government, as specified in WAC 173-303-840 (3)(e)(i)(E). This notification must be made within ninety calendar days after the change is put into effect. For the Class 1 modifications that require prior director approval, the notification must be made within ninety calendar days after the director approves the request.
- (C) Any person may request the director to review, and the director may for cause reject, any Class 1 modification. The director must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.
- (ii) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the director.
- (iii) For a Class 1 permit modification, the permittee may elect to follow the procedures in (b) of this subsection for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the director of this decision in the notice required in (b)(i) of this subsection.
  - (b) Class 2 modifications.
- (i) For Class 2 modifications, listed in Appendix I of this section, the permittee must submit a modification request to the director that:
- (A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
- (B) Identifies that the modification is a Class 2 modification;
  - (C) Explains why the modification is needed; and
- (D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.
- (ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(E) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published

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within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

- (A) Announcement of a sixty-day comment period, in accordance with (b)(v) of this subsection, and the name and address of a departmental contact to whom comments must be sent;
- (B) Announcement of the date, time, and place for a public meeting held in accordance with (b)(iv) of this subsection;
- (C) Name and telephone number of the permittee's contact person;
- (D) Name and telephone number of a departmental contact person;
- (E) Location where copies of the modification request and any supporting documents can be viewed and copied; and
- (F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."
- (iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.
- (iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (b)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.
- (v) The public will be provided sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the public notice.
- (vi)(A) No later than ninety days after receipt of the notification request, the director must:
- (I) Approve the modification request, with or without changes, and modify the permit accordingly;
  - (II) Deny the request;
- (III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:
- (AA) There is significant public concern about the proposed modification; or
- (BB) The complex nature of the change requires the more extensive procedures of Class 3;
- (IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days; or
- (V) Notify the permittee that he or she will decide on the request within the next thirty days.
- (B) If the director notifies the permittee of a thirty-day extension for a decision, the director must, no later than one hundred twenty days after receipt of the modification request:
- (I) Approve the modification request, with or without changes, and modify the permit accordingly;
  - (II) Deny the request; or

- (III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:
- (AA) There is significant public concern about the proposed modification; or
- (BB) The complex nature of the change requires the more extensive procedures of Class 3.
- (IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days.
- (C) If the director fails to make one of the decisions specified in (b)(vi)(B) of this subsection by the one hundred twentieth day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one hundred eighty days, without formal departmental action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400). If the director approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in (b)(vi)(A), (B), or (C) of this subsection, such action cancels the temporary or automatic authorization.
- (D)(I) In the case of an automatic authorization under (b)(vi)(C) of this subsection, or a temporary authorization under (b)(vi)(A)(IV) or (B)(IV) of this subsection, if the director has not made a final approval or denial of the modification request by the date fifty days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:
- (AA) The permittee has been authorized temporarily to conduct the activities described in the permit modification request; and
- (BB) Unless the director acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.
- (II) If the owner/operator fails to notify the public by the date specified in (b)(vi)(D)(I) of this subsection, the effective date of the permanent authorization will be deferred until fifty days after the owner/operator notifies the public.
- (E) Except as provided in (b)(vi)(G) of this subsection, if the director does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subsection (3) or (4) of this section. The activities authorized under this subsection (b)(vi)(E) must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400).
- (F) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the direc-

tor must consider all written comments submitted during the public comment period and must respond in writing to all significant comments in his or her decision.

- (G) With the written consent of the permittee, the director may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.
- (vii) The director may deny or change the terms of a Class 2 permit modification request under (b)(6)(i) through (iii) of this subsection for the following reasons:
  - (A) The modification request is incomplete;
- (B) The requested modification does not comply with the appropriate requirements of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680 or other applicable requirements; or
- (C) The conditions of the modification fail to protect human health and the environment.
- (viii) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty days after the submission of the request unless the director establishes a later date for commencing construction and informs the permittee in writing before day sixty.
  - (c) Class 3 modifications.
- (i) For Class 3 modifications listed in Appendix I of this section, the permittee must submit a modification request to the director that:
- (A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit:
- (B) Identifies that the modification is a Class 3 modification:
  - (C) Explains why the modification is needed; and
- (D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.
- (ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(D) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:
- (A) Announcement of a sixty-day comment period, and a name and address of an agency contact to whom comments must be sent;
- (B) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with (c)(4) of this subsection;
- (C) Name and telephone number of the permittee's contact person;
- (D) Name and telephone number of a departmental contact person;
- (E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

- (F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."
- (iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.
- (iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (c)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.
- (v) The public will be provided at least sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the notice.
- (vi) After the conclusion of the sixty-day comment period, the director must grant or deny the permit modification request according to the permit modification procedures of WAC 173-303-840. In addition, the director must consider and respond to all significant written comments received during the sixty-day comment period.
  - (d) Other modifications.
- (i) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.
- (ii) The director will make the determination described in (d)(i) of this subsection as promptly as practicable. In determining the appropriate class for a specific modification, the director will consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:
- (A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the director may require prior approval.
- (B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:
- (I) Common variations in the types and quantities of the wastes managed under the facility permit;
  - (II) Technological advancements; and
- (III) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.
- (C) Class 3 modifications substantially alter the facility or its operation.
  - (e) Temporary authorizations.

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- (i) Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than one hundred eighty days.
- (ii)(A) The permittee may request a temporary authorization for:
- (I) Any Class 2 modification meeting the criteria in (e)(iii)(B) of this subsection; and
- (II) Any Class 3 modification that meets the criteria in (e)(iii)(B)(I) or (II) of this subsection; or that meets the criteria in (e)(iii)(B)(III) through (V) of this subsection and provides improved management or treatment of a dangerous waste already listed in the facility permit.
  - (B) The temporary authorization request must include:
- (I) A description of the activities to be conducted under the temporary authorization;
- (II) An explanation of why the temporary authorization is necessary; and
- (III) Sufficient information to ensure compliance with the standards in WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.
- (C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the director and to appropriate units of state and local governments as specified in WAC 173-303-840 (3)(e)(i)(D). This notification must be made within seven days of submission of the authorization request.
- (iii) The director will approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the director must find:
- (A) The authorized activities are in compliance with the standards of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.
- (B) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:
- (I) To facilitate timely implementation of closure or corrective action activities;
- (II) To allow treatment or storage in tanks, containers, or in containment buildings in accordance with 40 CFR Part 268:
- (III) To prevent disruption of ongoing waste management activities;
- (IV) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or
- (V) To facilitate other changes to protect human health and the environment.
- (iv) A temporary authorization may be reissued for one additional term of up to one hundred eighty days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:
- (A) The reissued temporary authorization constitutes the director's decision on a Class 2 permit modification in accordance with (b)(vi)(A)(IV) or (B)(IV) of this subsection; or
- (B) The director determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue

- while the modification procedures of (c) of this subsection are conducted.
- (f) Public notice and appeals of permit modification decisions.
- (i) The director will notify persons on the facility mailing list and appropriate units of state and local government within ten days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The director will also notify such persons within ten days after an automatic authorization for a Class 2 modification goes into effect under (b)(vi)(C) or (E) of this subsection.
- (ii) The director's decision to grant or deny a Class 2 or 3 permit modification request under this section may be appealed under the permit appeal procedures of WAC 173-303-845.
- (iii) An automatic authorization that goes into effect under (b)(vi)(C) or (E) of this subsection may be appealed under the permit appeal procedures of WAC 173-303-845; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to WAC 173-303-845, notwithstanding the provisions of WAC 173-303-840 (8)(b).
  - (g) Newly regulated wastes and units.
- (i) The permittee is authorized to continue to manage wastes listed or identified as dangerous under WAC 173-303-070, or to continue to manage dangerous waste in units newly regulated as dangerous waste management units, if:
- (A) The unit was in existence as a dangerous waste facility with respect to the newly listed or identified waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;
- (B) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;
- (C) The permittee is in compliance with the applicable standards of 40 CFR Part 265 (as referenced in WAC 173-303-400) and Part 266 (as referenced in WAC 173-303-510);
- (D) The permittee also submits a complete Class 2 or 3 permit modification request within one hundred eighty days of the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards under this chapter; and
- (E) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of 40 CFR Part 265 for ground water monitoring and financial responsibility (as referenced in WAC 173-303-400) on the date twelve months after the effective date of the rule identifying or listing the waste as dangerous, or regulating the unit as a dangerous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under this section.
- (ii) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the twenty-five percent capacity expansion limit for Class 2 modifications.
- (h) Military dangerous waste munitions treatment and disposal. The permittee is authorized to continue to accept

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waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

- (i) The facility was in existence as a dangerous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to dangerous waste regulatory requirements;
- (ii) On or before the date when the waste military munitions become subject to dangerous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and
- (iii) The permittee submits a complete Class 2 modification request within one hundred eighty days of the date when the waste military munitions became subject to dangerous waste regulatory requirements.
- (i) Permit modification list. The director must maintain a list of all approved permit modifications and must publish a notice once a year in a statewide newspaper that an updated list is available for review.

#### APPENDIX I

A. General Permit Provisions  1. Administrative and informational changes
2. Correction of typographical errors
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)
ally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:  a. To provide for more frequent monitoring, reporting, sampling, or maintenance
toring, reporting, sampling, or maintenance activities by the permittee:  a. To provide for more frequent monitoring, reporting, sampling, or maintenance
a. To provide for more frequent monitoring, reporting, sampling, or maintenance
a. To provide for more frequent monitoring, reporting, sampling, or maintenance
sampling, or maintenance
b. Other changes
5. Schedule of compliance:  a. Changes in interim compliance dates, with prior approval of the director
a. Changes in interim compliance dates, with prior approval of the director
approval of the director
b. Extension of final compliance date
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the director
permit termination, with prior approval of the director
director
7. Changes in ownership or operational control of a facility, provided the procedures of subsection (2)(b) of this section are followed
ity, provided the procedures of subsection (2)(b) of this section are followed
tion are followed
<ul><li>B. General Facility Standards</li><li>1. Changes to waste sampling or analysis methods:</li></ul>
1. Changes to waste sampling or analysis methods:
-
a. To conform with agency guidance or
1.00
regulations
b. To incorporate changes associated with F039 (multi-
source leachate) sampling or analysis methods <sup>1</sup> 1
c. To incorporate changes associated with underlying dangerous constituents in ignitable or corrosive

wastes

d. Othe	r changes
2. Chan	ges to analytical quality assurance/control plan:
a. To co	onform with agency guidance
or regulation	ns
b. Othe	r changes
3. Chan	iges in procedures for maintaining the operating
record	
4. Chan	iges in frequency or content of inspection
schedules .	
5. Char	iges in the training plan:
a. That	affect the type or decrease the amount of training
given to em	ployees 2
b. Othe	r changes
	ingency plan:
	ges in emergency procedures (i.e., spill or release
	ocedures)
	acement with functionally equivalent equipment,
	relocate emergency equipment listed 1
c. Rem	oval of equipment from emergency equipment
d. Char	nges in name, address, or phone number of
coordinator	s or other persons or agencies identified in the
plan	
7. Cons	struction quality assurance plan:
a. Chan	ges that the CQA officer certifies in the operating
	provide equivalent or better certainty that the unit
	meet the design specification 1
b. Othe	r changes
Note:	When a permit modification (such as introduction of a new
	unit) requires a change in facility plans or other general facility standards, that change will be reviewed under the
	same procedures as the permit modification.
	Water Protection
	nges to wells:
a. Char	nges in the number, location, depth, or design of
	or downgradient wells of permitted ground water
-	system
	accement of an existing well that has been dam-
aged or rend	dered inoperable, without change to location, epth of the well
	nges in ground water sampling or analysis or monitoring schedule, with prior approval
•	tor <sup>1</sup> 1
	nges in statistical procedure for determining tatistically significant change in ground water
	veen upgradient and downgradient wells has
	ith prior approval of the director
	nges in point of compliance
	nges in indicator parameters, hazardous constitu-
	centration limits (including ACLs):

a. As specified in the ground water protection	d. Waste piles that comply with WAC 1/3-303-000
standard 3	(1)(c)
b. As specified in the detection monitoring	e. Tanks or containers (other than specified
program2	below)
6. Changes to a detection monitoring program as	f. Tanks used for neutralization, dewatering, phase
required by WAC 173-303-645 (9)(((j))), unless otherwise	separation, or component separation, with prior approval of
specified in this appendix2	the director <sup>1</sup> 1
7. Compliance monitoring program:	g. Staging piles
a. Addition of compliance monitoring program as	E. Post-Closure
required by WAC 173-303-645 (9)( $(\frac{(h)(iv)}{(v)})$ ) and (10) 3	1. Changes in name, address, or phone number of contact
b. Changes to a compliance monitoring program as	in post-closure plan
required by WAC 173-303-645 (10)(( <del>(k)</del> )), unless otherwise	2. Extension of post-closure care period
specified in this appendix	3. Reduction in the post-closure care period3
8. Corrective action program:	4. Changes to the expected year of final closure, where
	other permit conditions are not changed
a. Addition of a corrective action program as required by WAC 173-303-645 (10)(i)(ii) and (11)3	•
	5. Changes in post-closure plan necessitated by events
b. Changes to a corrective action program as	occurring during the active life of the facility, including partial and final closure
required by WAC 173-303-645 (11)(h), unless otherwise specified in this appendix	
	F. Containers
D. Closure	Modification or addition of container units:
1. Changes to the closure plan:	a. Resulting in greater than 25% increase in the facility's
a. Changes in estimate of maximum extent of oper-	container storage capacity, except as provided in F(1)(c) and
ations or maximum inventory of waste on-site at any time	F (4)(a) below
during the active life of the facility, with prior approval of	b. Resulting in up to 25% increase in the facility's con-
the director <sup>1</sup> 1	tainer storage capacity, except as provided in F (1)(c) and F
b. Changes in the closure schedule for any unit, changes	(4)(a) below
in the final closure schedule for the facility, or extension of	c. Or treatment processes necessary to treat wastes that
the closure period, with prior approval of the	are restricted from land disposal to meet some or all of the
director	applicable treatment standards or to treat wastes to satisfy (in
c. Changes in the expected year of final closure, where	whole or in part) the standard of "use of practically available
other permit conditions are not changed, with prior	technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of
approval of the director	the director. This modification may also involve addition of
d. Changes in procedures for decontamination of facility	new waste codes or narrative descriptions of wastes. It is not
equipment or structures, with prior approval	applicable to dioxin-containing wastes (F020, 021, 022, 023
of the director	026, 027, and 028)
e. Changes in approved closure plan resulting from	2:
unexpected events occurring during partial or final closure, unless otherwise specified in this appendix	a. Modification of a container unit without increasing the
	capacity of the unit
f. Extension of the closure period to allow a landfill, sur-	b. Addition of a roof to a container unit without alter-
face impoundment, or land treatment unit to receive nondan-	
gerous wastes after final receipt of dangerous wastes under WAC 173-303-610 (4)(d) and (e)	ation of the containment system
	3. Storage of different wastes in containers:
2. Creation of a new landfill unit as part of	a. That require additional or different management prac
closure	tices from those authorized in the permit, except as provided
3. Addition of the following new units to be used tempo-	in F(4) below
rarily for closure activities:	b. That do not require additional or different manage-
a. Surface impoundments	ment practices from those authorized in the permit
b. Incinerators3	Note: See (g) of this subsection for modification procedures to b
c. Waste piles that do not comply with WAC 173-303-	used for the management of newly listed or identified wastes.
660 (1)(c)	·· <del></del>

- 4. Storage or treatment of different wastes in containers:

1:

- 2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit ...... 2
- - -The capacity difference is no more than 1500 gallons,

-The facility's permitted tank capacity is not increased, and

-The replacement tank meets the same conditions in the permit.

- 4. Modification of a tank management practice ..... 2
- 5. Management of different wastes in tanks:
- b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in  $G(5)(d) \dots 2$

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

#### H. Surface Impoundments

- - 2. Replacement of a surface impoundment unit ..... 3
- 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system ..... 2
- 5. Treatment, storage, or disposal of different wastes in surface impoundments:

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to sat-	Note:	See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.
isfy the standard of "use of practically available technology	J. Landfills a	and Unenclosed Waste Piles
that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the unit meets the	1. Modi	fication or addition of landfill units that result in
minimum technological requirements stated in 40 CFR 268.5	increasing th	ne facility's disposal capacity
(h)(2). This modification is not applicable to dioxin-contain-	2. Repla	acement of a landfill
ing wastes (F020, 021, 022, 023, 026, 027, and 028) 1	-	tion or modification of a liner, leachate collection
d. That are residues from wastewater treatment or incin-		hate detection system, run-off control, or final
eration, provided that disposal occurs in a unit that meets the		n3
minimum technological requirements stated in 40 CFR 268.5		fication of a landfill unit without changing a
(h)(2), and provided further that the surface impoundment	liner, leacha	te collection system, leachate detection system,
has previously received wastes of the same type (for exam-	run-off cont	rol, or final cover system
ple, incinerator scrubber water). This modification is not		fication of a landfill management
applicable to dioxin-containing wastes (F020, 021, 022, 023,	practice	2
026, 027, and 028)	6. Land	fill different wastes:
6. Modifications of unconstructed units to comply with		require additional or different management prac-
WAC 173-303-650 (2)(j), (10), (11), and (4)(d) *1		ent design of the liner, leachate collection system,
7. Changes in response action plan:		detection system3
a. Increase in action leakage rate		do not require additional or different manage-
b. Change in a specific response reducing its frequency		ces, different design of the liner, leachate collec-
or effectiveness		or leachate detection system
c. Other changes		are wastes restricted from land disposal that meet
Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified		le treatment standards or that are treated to sat- dard of "use of practically available technology
wastes.	•	he greatest environmental benefit" contained in
I. Enclosed Waste Piles. For all waste piles except those com-	-	8.8 (a)(2)(ii), and provided that the landfill unit
plying with WAC 173-303-660 (1)(c), modifications are		inimum technological requirements stated in 40
treated the same as for a landfill. The following modifica-		(h)(2). This modification is not applicable to
tions are applicable only to waste piles complying with WAC		aining wastes (F020, 021, 022, 023, 026, 027, and
173-303-660 (1)(c).	•	
1. Modification or addition of waste pile units:		are residues from wastewater treatment or incin-
a. Resulting in greater than 25% increase in the facility's	-	vided that disposal occurs in a landfill unit that
waste pile storage or treatment capacity3		inimum technological requirements stated in 40 (h)(2), and provided further that the landfill has
b. Resulting in up to 25% increase in the facility's waste		received wastes of the same type (for example,
pile storage or treatment capacity	•	ash). This modification is not applicable to
2. Modification of waste pile unit without increasing the		aining wastes (F020, 021, 022, 023, 026, 027, and
capacity of the unit		
3. Replacement of a waste pile unit with another waste	7. Mod	ifications of unconstructed units to comply with
pile unit of the same design and capacity and meeting all		603-660 (2)(j), (11), (12), (5)(c), 173-303-665
waste pile conditions in the permit	(2)(h), (8), (	(4)(c), and (9)*1
4. Modification of a waste pile management practice	8. Char	nges in response action plan:
•	a. Incre	ease in action leakage rate
5. Storage or treatment of different wastes in waste piles:	b. Char	nge in a specific response reducing its frequency
a. That require additional or different management practices or different design of the unit		ness
b. That do not require additional or different manage-	c. Othe	r changes
ment practices or different design of the unit	Note:	See (g) of this subsection for modification procedures to be
6. Conversion of an enclosed waste pile to a containment		used for the management of newly listed or identified wastes.

building unit ......2

K. Land Treatment	15. Changes in any condition specified in the permit
1. Lateral expansion of or other modification of a land	for a land treatment unit to reflect results of the land
treatment unit to increase areal extent	treatment demonstration, provided performance standards
2. Modification of run-on control system	are met, and the director's prior approval has been
3. Modify run-off control system	received
	<ol><li>Changes to allow a second land treatment demon-</li></ol>
4. Other modifications of land treatment unit component	stration to be conducted when the results of the first demon-
specifications or standards required in permit	stration have not shown the conditions under which the
5. Management of different wastes in land treatment	wastes can be treated completely, provided the conditions for
units:	the second demonstration are substantially the same as the
a. That require a change in permit operating conditions	conditions for the first demonstration and have received the
or unit design specifications3	prior approval of the director
b. That do not require a change in permit operating con-	17. Changes to allow a second land treatment demon-
ditions or unit design specifications2	stration to be conducted when the results of the first demon-
Note: See (g) of this subsection for modification procedures to be	stration have not shown the conditions under which the
used for the management of newly listed or identified	wastes can be treated completely, where the conditions for
wastes.	the second demonstration are not substantially the same as
<ol><li>Modification of a land treatment unit management</li></ol>	the conditions for the first demonstration
practice to:	18. Changes in vegetative cover requirements for
a. Increase rate or change method of waste	closure 2
application3	L. Incinerators, Boilers, and Industrial Furnaces
b. Decrease rate of waste application 2	1. Changes to increase by more than 25% any of the fol-
7. Modification of a land treatment unit management	lowing limits authorized in the permit: A thermal feed rate
practice to change measures of pH or moisture content, or to	limit, a feedstream feed rate limit, a chlorine/chloride feed
enhance microbial or chemical reactions	rate limit, a metal feed rate limit, or an ash feed rate limit. The
8. Modification of a land treatment unit management	director will require a new trial burn to substantiate compli-
practice to grow food chain crops, to add to or replace exist-	ance with the regulatory performance standards unless this
ing permitted crops with different food chain crops, or to	demonstration can be made through other means 3
modify operating plans for distribution of animal feeds	2. Changes to increase by up to 25% any of the following
resulting from such crops	limits authorized in the permit: A thermal feed rate limit, a
9. Modification of operating practice due to detection of	feedstream feed rate limit, a chlorine/chloride feed rate limit,
releases from the land treatment unit pursuant to WAC 173-	a metal feed rate limit, or an ash feed rate limit. The director
303-655 (6)(g)(ii)	will require a new trial burn to substantiate compliance with
10. Changes in the unsaturated zone monitoring system,	the regulatory performance standards unless this demonstra-
resulting in a change to the location, depth, number of sam-	tion can be made through other means
pling points, or replace unsaturated zone monitoring devices	3. Modification of an incinerator, boiler, or industrial
or components of devices with devices or components that	furnace unit by changing the internal size or geometry of the
have specifications different from permit requirements 3	primary or secondary combustion units, by adding a primary
11. Changes in the unsaturated zone monitoring sys-	or secondary combustion unit, by substantially changing the
tem that do not result in a change to the location, depth,	design of any component used to remove HC1/C1 <sub>2</sub> , metals, or
number of sampling points, or that replace unsaturated	particulate from the combustion gases, or by changing other
zone monitoring devices or components of devices with	features of the incinerator, boiler, or industrial furnace that
devices or components having specifications different from	could affect its capability to meet the regulatory performance
permit requirements2	standards. The director will require a new trial burn to sub-
12. Changes in background values for hazardous constit-	stantiate compliance with the regulatory performance stan-
uents in soil and soil-pore liquid	dards unless this demonstration can be made through other
13. Changes in sampling, analysis, or statistical	means
procedure	
14. Changes in land treatment demonstration program	
prior to or during the demonstration	

-	
4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The director may require a new trial burn to demonstrate compliance with the regulatory performance standards	c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the director  d. Changes in the ranges of the operating requireme set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approof the director  8. Substitution of an alternate type of nondangerous that is not specified in the permit  M. Containment Buildings  1. Modification or addition of containment building units:  a. Resulting in greater than 25% increase in the facil containment building storage or treatment capacity.  b. Resulting in up to 25% increase in the facility's creation to the facility of the director of a containment building unit or secondary containment system without increasing the capacity of the unit.  3. Replacement of a containment building with a containment of a containment building with a containment building with a containment of a containment building with a containment building with a containment of a containment of a containment building with a containment of a containment of a cont
c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit	tainment building that meets the same design standards vided:  a. The unit capacity is not increased.  b. The replacement containment building meets the s conditions in the permit.  4. Modification of a containment building manager practice.  5. Storage or treatment of different wastes in containment buildings:  a. That require additional or different management practices.  b. That do not require additional or different management practices.  N. Corrective Action  1. Approval of a corrective action management unit
tory performance standards than specified in the permit 2  Note: See (g) of this subsection for modification procedures to be	suant to WAC 173-303-646 (4), (5), and (6)

wastes 7. Shakedown and trial burn:

a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn .....2

used for the management of newly listed or identified

b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the director ......<sup>1</sup>1

of the director
d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, pro- vided the change is minor and has received the prior approval
of the director <sup>1</sup> 1
8. Substitution of an alternate type of nondangerous fuel
that is not specified in the permit
M. Containment Buildings
1. Modification or addition of containment building
units:
a. Resulting in greater than 25% increase in the facility's
containment building storage or treatment capacity 3
b. Resulting in up to 25% increase in the facility's con-
tainment building storage or treatment capacity2
2. Modification of a containment building unit or sec-
ondary containment system without increasing the capacity
of the unit
3. Replacement of a containment building with a con-
tainment building that meets the same design standards pro-
vided:
a. The unit capacity is not increased
b. The replacement containment building meets the same
conditions in the permit
4. Modification of a containment building management
practice
5. Storage or treatment of different wastes in contain-
ment buildings:
a. That require additional or different management
practices
b. That do not require additional or different manage-
ment practices
N. Corrective Action
1. Approval of a corrective action management unit pursuant to WAC 173-303-646 (4), (5), and (6) 3
2. Approval of a temporary unit or time extension for a
temporary unit pursuant to WAC 173-303-646(7)2
3. Approval of a staging pile or staging pile operating
term extension
4. Modification to incorporate a corrective action order
issued pursuant to MTCA
5. Modification or amendment of a corrective action
order issued pursuant to MTCA when the MTCA public par-

ticipation requirements are met and order has already been

<sup>&</sup>lt;sup>1</sup>Class 1 modifications requiring prior Agency approval

- (5) Permit termination. The director will follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:
- (a) Noncompliance by the permittee with any condition of the permit;
- (b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- (c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

#### **NEW SECTION**

WAC 173-303-920 Petitions—State delistings. Petitions that have been granted for state delistings.

## WSR 02-11-106 PROPOSED RULES DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators) [Filed May 20, 2002, 12:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-13-093.

Title of Rule: WAC 246-843-150 Continuing education requirements for renewal of license, 246-843-180 Expired licenses, and 246-843-330 Inactive credential.

Purpose: Reporting continuing education (CE) on a periodic basis ensures that NHAs are gaining current knowledge related to administering a licensed nursing home. For individuals who have had a five-year or more absence from practice, taking the national exam again will ensure that the NHA is knowledgeable of current national practice standards for the profession.

Other Identifying Information: Clarify existing language.

Statutory Authority for Adoption: RCW 18.52.061 and 18.52.110.

Statute Being Implemented: Chapter 18.52 RCW.

Summary: Rule amendment will change the reporting cycle for continuing education to a two-year cycle but the ratio of hours accumulated to number of years remains the same. Rule amendments will create a requirement for nursing home administrators with an expired license or an inactive license to take the current examination if the NHA is out of practice for five years and wants active license.

Reasons Supporting Proposal: Changing the reporting cycle will require NHA to keep CE documentation for a shorter time. Requiring national examination will assure that NHAs who are out of practice are competent to be in administrative charge of a licensed nursing home for the safety, health and welfare of residents.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara A. Hayes, Department of Health, (360) 236-4921.

Name of Proponent: Boarding of Nursing Home Administrators, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule requires reporting continuing education to ensure current knowledge of profession and requires certain NHAs to retake the national exam.

The purpose of the changes is to assure that the NHA is knowledgeable regarding current national practice standards for the profession. Federal and state regulations change frequently and people who are out of practice for five years will have to retake the national examination.

The board anticipates this rule will improve safety, health and welfare of residents by assuring NHAs have met current practice standards.

Proposal Changes the Following Existing Rules: The proposed amendments to WAC 246-843-150 change the continuing education reporting schedule from a three-year to a two-year reporting cycle.

The proposed amendments to WAC 246-843-180 will require an NHA with an expired license who has been in active practice in another jurisdiction to provide proof of active practice to return to active status and will require an NHA with an expired license who has not been in practice in any jurisdiction for five years or more to take the current national examination to return to active status.

The proposed amendments to WAC 246-843-330 will require an NHA with an inactive license who has been in active practice in another jurisdiction to provide proof of active practice to return to active status and will require an NHA with an inactive license who has not been in active practice in any jurisdiction for five years or more to take the current national examination.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

I. What does the rule or rule amendment require? The proposed regulations will establish requirements for nursing home administrators (NHA). Every nursing home facility has one licensed NHA in administrative charge of the facility. One rule change revises the continuing education reporting cycle for NHA to maintain their active license status. One rule change requires NHA who wish to reactive an expired license to provide proof of practice if they have allowed the license to expire for more than five years and have been in active practice in any jurisdiction. If they have not been in active practice, the NHA is required to pass the current national examination. One rule change requires NHA who wish to reactivate an inactive license to take the current national examination if they have had an inactive license for more than five years and have not been in active practice in any jurisdiction.

Old Requirements	New Requirement
The Continuing Education	n Cycle
Continuing education	Continuing education runs on a
runs on a three year cycle	two year cycle at thirty-six
at fifty-four hours every	hours every two years or eigh-
three years or eighteen	teen hours per year.
hours per year.	
Preceptors for administr	ator in training programs are
_	onth of continuing education
credit	J
Preceptor credit was lim-	Preceptor credit will be limited
ited to twenty-four hours	to sixteen hours per two year
per three year period.	period or an average of eight
per unee year perioa.	hours per year.
Evnirad licenses	nours per year.
Expired licenses	If a linear has have a series of
If a license has been on	If a license has been on expired
expired status for over	status for over five years and the licensee has been in active
three years the licensee	
must complete an abbre-	practice in another state, the lic
viated application form,	ensee must complete an abbre-
pay applicable fees and	viated application form, pay
attest to completion of	applicable fees, attest to com-
the two most recent years	pletion of the two most recent
of continuing education	years of continuing education
in order to return to	and provide proof of active
active status.	practice in order to return to active status.
	If a license has been on expired
	status for over five years and
	the licensee has not been in
	active practice in another state,
	the licensee must complete an
	abbreviated application form,
	pay applicable fees, attest to
	completion of the two most
	recent years of continuing edu-
	cation and successfully com-
	plete the current licensing exam
	in order to return to active sta-
<u> </u>	tus.
Inactive licenses	1-0-11
If a license has been on	If a license has been on inactive
inactive status the lic-	status for less than five years
ensee must pay applica-	the licensee must pay applica-
ble fees and attest to	ble fees and attest to completion
completion of the two	of the two most recent years of
most recent years of con-	continuing education in order to
tinuing education in	return to active status.
1	

Old Requirements	New Requirement		
	If a license has been on inactive		
	status for over five years and		
	the licensee has been in active		
	practice in another state, the lic- ensee must pay applicable fees,		
	attest to completion of the two		
	most recent years of continuing		
	education and provide proof of		
	active practice in order to return		
	to active status.		
	If a license has been on inactive		
	status for over five years and		
	the licensee has not been in		
	active practice in another state,		
	the licensee must pay applica-		
	ble fees, attest to completion of		
	the two most recent years of		
	continuing education and suc-		
	cessfully complete the current		
	licensing exam in order to		
	return to active status.		

II. What industries are affected? SIC 8051 covers skilled nursing facilities, which require a licensed NHA. Each facility has one NHA in administrative charge of the nursing home. Licensed NHA who are in charge of a nursing home are also called chief executives in the industry. There are 281 firms in the industry. Some nursing homes are operated by corporations that own more than one facility. DSHS, which licenses nursing homes, lists 301 licensed nursing home facilities.

order to return to active

status.

		TOTAL	TOTAL	Average employment		
SIC	DESCRIPTION	<u>UNITS</u>	<b>Employment</b>	Smallest 90%	Largest 10%	
8051	Skilled nursing care facilities	281	26,407	15	144	

III. What are the costs? The revised schedule for reporting continuing education from three years to two years is not expected to have an impact because the number of hours per year will be the same. Further, it requires NHA to keep CE documentation for a shorter period of time.

A nursing home administrator required to take the national exam to get an active license would pay a total cost of \$1325 as follows:

per examination (\$185 exam fee and \$60 testing fee)

- \$130 for NAB study guide \$170 to fill out examination paperwork—1/2 day at \$390¹ average per day NHA salary \$390 to study for exam—1 day at \$390² average per day³ NHA salary
- \$390 travel to exam site and take 3-hour exam—1 day at \$3904 average per day5
- \$1325 to take the exam

\$245

Based on past years, the Department of Health (DOH) estimates that 2,000 practitioners may be subject to the requirements of the proposed rules. This figure includes 460 people with active licenses, 140 with inactive license and 1400 with expired license—many of which will not require an active license.

Approximately one person per year with expired license who has not practiced in any jurisdiction for more than five years will request active license. Approximately one person per year with inactive license who has not practiced in any jurisdiction for more than five years will request active license. Each practitioner must obtain a separate, individual credential. If a nursing home covers the licensing reactivation costs for these two people, then they will incur this additional cost.

DOH used input from the Board of Nursing Home Administrators rather than a survey or a committee to obtain cost data.

Other than the costs above, there are no new costs such as reporting, record keeping, compliance costs, professional services, equipment, supplies, labor, increased administrative costs, lost sales or revenue.

IV. Is the cost disproportionate? This rule may have a disproportionate impact on small nursing homes and the board has therefore taken steps to minimize the costs of the rule.

A worst-case scenario for disproportionate impact would be that two nursing homes, one large and one a small business, would pay for the examination. Since only two people will encounter the current examination requirement each year, only two businesses can experience the impact of this change.

The cost for the exam, \$1325, is the same for both large and small companies.

- The cost per employee for large businesses with an average of one hundred forty-four employees is \$9.20 per employee.
- The cost per employee for small businesses with an average of fifteen employees is \$88 per employee.
- V. What cost minimizing features were included? List everything you have done AND if you have not done any of the following explain why it was not legal and feasible.

A. Reducing, modifying, or eliminating substantive regulatory requirements;

There has been no reduction, modification or elimination of substantive regulatory requirements. Reporting CE on a periodic basis is a standard practice to assure continuing competency of licensees. The requirement to be tested after a five-year lapse of practice is a reasonable requirement and is less onerous than requiring an administrator-in-training (AIT) program at a nursing home for much less pay than a licensed NHA. An AIT works under supervision of a qualified preceptor who works full time as the NHA at the same nursing home therefore a nursing home would pay the AIT as well as pay the NHA in charge. An AIT program would assure that such licensee meets minimal state standards but passing the national examination assures that such licensee meets minimal national standards of knowledge needed to be in charge of a nursing home.

B. Simplifying, reducing, or eliminating record keeping and reporting requirements;

Record keeping is not changed from current requirements. Licensees reporting CE every two years rather than every three years on a randomly selected basis is an insignificant workload and the Department of Health will not require additional fees. The frequency of reporting is increased to 1.5 times what is currently required but does not change the number of hours per year. There is no record keeping or reporting requirements associated with taking the national exam.

C. Reducing the frequency of inspections;

Department will continue to audit continuing education reporting on randomly selected licensees. Currently, an average of three licensees are audited each month. This activity will not require additional fees or time on the part of the licensee. There is no inspection related to taking the national exam.

D. Delaying compliance timetables;

Delay of compliance with CE reporting would conflict with established department credentialing rules. Delay of compliance to take the national exam is not feasible because each NHA with an expired or inactive license cannot anticipate an employment opportunity in Washington state.

E. Reducing or modifying fine schedules for noncompliance: or

There is no reduction or modification to fines for noncompliance of CE rules. No fine is assessed to reactivate an expired or inactive status.

VI. Any other mitigation techniques.

There are no other mitigation techniques used to minimize cost.

VII. How will you involve small business in the rule making?

Notice of proposed rules will be mailed to interested persons and licensees with active, inactive or expired licenses.

How did the department involve the public in the development of the proposed rule? Notices of public meetings were mailed to approximately 850 addresses. Two public meetings for public input were held. There were no attendees at these meetings. The Board of Nursing Home Administrators meeting agenda has included the topic for several open meetings. Agenda was mailed to interested persons on the mailing list. There was no controversial response from anyone.

A copy of the statement may be obtained by writing to Barbara A. Hayes, Health Services Consultant, Board of Nursing Home Administrators, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4921, fax (360) 664-9077.

RCW 34.05.328 applies to this rule adoption. The proposed rule is significant because it adopts a new or makes significant amendments to a policy or regulatory program. The agency has conducted the additional analysis required.

Hearing Location: CenterPoint Corporate Park, Creekside Building No. 3, 1st Floor, 20435 72nd Avenue South, Kent, WA 98032, on August 9, 2002, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Barbara Hayes at (360) 236-4921, by July 26, 2002, TDD (800) 833-6388.

Submit Written Comments to: Barbara A. Hayes, fax (360) 664-9077, by July 26, 2002.

Date of Intended Adoption: August 9, 2002.

April 10, 2002 Barbara A. Hayes Health Services Consultant 3

AMENDATORY SECTION (Amending WSR 00-01-074, filed 12/13/99, effective 1/13/00)

WAC 246-843-150 Continuing education requirements for renewal of <u>active</u> license. (1) Licensed nursing home administrators must demonstrate completion of ((<del>fiftyfour</del>)) thirty-six hours of continuing education every ((three)) two years as provided in chapter 246-12 WAC, Part 7.

(2) Licensees practicing solely out of Washington state are exempt from WAC 246-843-130(1) and must meet all other requirements.

(3) A preceptor for an administrator-in-training program may be granted continuing education credit of one hour per month of the AIT program. Credit as a preceptor is limited to ((twenty four)) sixteen hours of continuing education in any ((three)) two-year period.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-843-180 Expired license((s)). (1) ((H)) To return to active status when the license has expired for three years or less, the practitioner must meet the requirements of ((ehapter 246-12 WAC, Part 2)) WAC 246-12-040 (2)(a) or (b).

- (2) ((If)) To return to active status when the license has expired for over three years but less than five years, the practitioner must((÷
  - (a) Reapply for licensing under current requirements;
- (b) Meet the requirements of chapter 246-12 WAC, Part 2)) meet the requirements of WAC 246-12-040 (2)(c).
- (3) To return to active status when the license has been expired for five years or more:
- (a) If the practitioner has been in active practice as a licensed nursing home administrator in another jurisdiction during that time, the practitioner must:
- (i) Meet the requirements of WAC 246-12-040 (2)(c); and
  - (ii) Provide proof of active practice; or
- (b) If the practitioner has not been in active practice as a licensed nursing home administrator in another jurisdiction during that time, the practitioner must:
- (i) Meet the requirements of WAC 246-12-040 (2)(c); and
- (ii) Successfully complete the current licensing examination.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-843-330 Inactive ((eredential)) license. (1) A practitioner may obtain an inactive ((eredential)) license. Refer to the requirements of chapter 246-12 WAC, Part 4.

- (2) To return to active status from inactive status if the license has been on inactive status for less than five years, the practitioner must meet the requirements of WAC 246-12-110.
- (3) To return to active status from inactive status if the license has been on inactive status for five years or more:
- (a) If the practitioner has been in active practice as a licensed nursing home administrator in another jurisdiction during that time, the practitioner must:
  - (i) Meet the requirements of WAC 246-12-110; and
  - (ii) Provide proof of active practice; or
- (b) If the practitioner has not been in active practice as a licensed nursing home administrator in another jurisdiction during that time, the practitioner must:
  - (i) Meet the requirements of WAC 246-12-110; and
- (ii) Successfully complete the current licensing examination.

<sup>&</sup>lt;sup>1</sup> Bureau of Labor Statistics - mean hourly wage of \$48.67 for chief executives.

<sup>&</sup>lt;sup>2</sup> Bureau of Labor Statistics - mean hourly wage of \$48.67 for chief executives.

<sup>&</sup>lt;sup>3</sup> A single eight-hour day of study was based on input from the Board of Nursing Home Administrators.

<sup>&</sup>lt;sup>4</sup> Bureau of Labor Statistics - mean hourly wage of \$48.67 for chief executives.

<sup>&</sup>lt;sup>5</sup> A single eight-hour day of study was based on input from the Board of Nursing Home Administrators.

# WSR 02-11-118 PROPOSED RULES COUNTY ROAD ADMINISTRATION BOARD

[Filed May 21, 2002, 11:12 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Title 136 WAC.

Purpose: Creates chapter 136-50 WAC, Standards of good practice—Statutory relationship between county engineer and county legislative authority—Adoption of written policies. Creates a new standard of good practice to identify the statutory relationship between the county engineer and county legislative authority.

Statutory Authority for Adoption: Chapter 36.79 RCW.

Name of Agency Personnel Responsible for Drafting: Chris Mudgett, 2404 Chandler Court S.W., Suite 240, 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, 753-5989; and Enforcement: Jay Weber, 2404 Chandler Court S.W., Suite 240, 753-5989.

Name of Proponent: County Road Administration Board, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Creates chapter 136-50 WAC, Standards of good practice—Statutory relationship between county engineer and county legislative authority—Adoption of written policies. Creates a new standard of good practice to identify the statutory relationship between the county engineer and county legislative authority.

Proposal Changes the Following Existing Rules: Creates chapter 136-50 WAC, Standards of good practice—Statutory relationship between county engineer and county legislative authority—Adoption of written policies. Creates a new standard of good practice to identify the statutory relationship between the county engineer and county legislative authority.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: County Road Administration Board, 2404 Chandler Court S.W., Suite 280, Olympia, WA 98504-0913, on July 11, 2002, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Karen Pendleton by July 5, 2002, TDD (800) 833-6384, or (360) 753-5989.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, fax (360) 586-0386, by July 5, 2002.

Date of Intended Adoption: July 11, 2002.

May 9, 2002
Jay P. Weber
Executive Director

#### Chapter 136-50 WAC

STANDARDS OF GOOD PRACTICE—STATUTORY RELATIONSHIP BETWEEN COUNTY ENGINEER AND COUNTY LEGISLATIVE AUTHORITY—ADOP-TION OF WRITTEN POLICIES

#### **NEW SECTION**

WAC 136-50-010 Purpose and authority. The powers and duties of the county legislative authority in relation to roads and bridges, and the qualifications and duties of the county engineer are detailed in Title 36 RCW. The purpose of these laws is to designate the county engineer as the chief administrative officer of the county road department. This chapter reiterates the formal relationship between the legislative authority and its county engineer and requires that certain written policies be adopted to insure the efficient and productive operation of the road department.

In this chapter and throughout Title 136 WAC, the term "county engineer" shall mean both "county road engineer" and "county engineer," as those terms are used in Title 36 RCW.

#### **NEW SECTION**

WAC 136-50-020 Duties of county legislative authority. Certain specific powers and duties are set forth in RCW 36.75.040, 36.75.050, 36.80.010, 36.81.121 and 36.81.130. In addition to these specific statutory duties, the county legislative authority shall have the duty to develop written policies regarding county road department operation for the information and guidance of the county engineer.

#### **NEW SECTION**

WAC 136-50-030 Duties of the county engineer. The various duties and responsibilities of the county engineer are set forth in chapter 36.80 RCW. In addition to these specifically defined duties, the county engineer shall be guided by written policies regarding county road department operation as promulgated by the county legislative authority.

#### **NEW SECTION**

WAC 136-50-035 Charter counties. In counties that have adopted a home rule charter, as provided for in Article 11 subsection 4 of the state Constitution, the duties and responsibilities of the county engineer set forth in chapter 36.80 RCW may be modified by the county legislative authority as allowed by existing constitutional law, statutory law, and the county's charter.

#### **NEW SECTION**

WAC 136-50-050 Written policy. In order to implement the requirements of this chapter, the county legislative authority shall develop and by resolution adopt written policy covering any matters relating to road department operation as

they may see fit. WAC 136-50-051 through 136-50-055 list the issues that must be covered by such policies.

#### **NEW SECTION**

WAC 136-50-051 Policy regarding organization. It shall be the duty of the county engineer to organize the road department in accordance with the policies of the county legislative authority, into such departments, divisions, districts, or units as may be necessary to meet statutory requirements and to perform such additional services as may be directed by policy of the legislative authority.

The county legislative authority shall adopt a written policy, including a chart or pictorial representation, designating the interrelationships of all positions in the road department from the county legislative authority through all employees. The chart shall clearly show the complete chain of command throughout the entire organization. Copies of such chart shall be prominently posted in the office of the county engineer and in all road department shops in such a manner that it will be readily available to all road department employees and the general public.

#### **NEW SECTION**

WAC 136-50-052 Policy regarding personnel practices. The county legislative authority shall adopt a written policy outlining all road department personnel practices. The policy shall address recruitment, appointment, promotion, dismissal, hours of work, overtime, annual leave, sick leave, military leave, holidays, classification, union relationship where applicable, and general work rules, and may also include other topics as desired by the legislative authority. Copies of such policy shall be prominently posted in the office of the county engineer and in all road department shops in such a manner that it will be readily available to all road department employees and prospective employees.

#### **NEW SECTION**

WAC 136-50-053 Policy regarding handling of complaints. The county legislative authority shall adopt a written policy establishing the method by which complaints from the general public and others related to any road department activity will be handled. The purpose is to assure that each county will have an orderly procedure to insure that citizen complaints receive prompt attention.

#### **NEW SECTION**

WAC 136-50-054 Policy regarding approval of work for other public agencies and county departments. The county legislative authority shall adopt a written policy regarding approval of work for other public agencies and county departments. The policy shall include, but is not limited to, the following:

(1) Statement of intent indicating whether or not the legislative authority will accept requests for work for other public agencies or other county departments.

- (2) Statement indicating procedures to be followed in processing such requests in accordance with applicable statutes.
- (3) Statement indicating any delegation of authority in processing such requests.

#### **NEW SECTION**

WAC 136-50-055 Policy regarding accommodation of utilities on county road rights of way. The county legislative authority shall adopt a written policy outlining the county's administrative, procedural, and technical requirements regarding the installation, replacement, adjustment, relocation, and maintenance of all utilities in, on, or above the county road right of way.

#### **NEW SECTION**

WAC 136-50-070 Submittal of policies to the county road administration board. Each county legislative authority shall submit to the office of the county road administration board one copy of each policy required in WAC 136-50-051 through 136-50-055, and any subsequent revisions thereto, adopted pursuant to this regulation. The county road administration board shall maintain a current file of all such adopted policies for each county.

## WSR 02-11-119 PROPOSED RULES COUNTY ROAD ADMINISTRATION BOARD

[Filed May 21, 2002, 11:13 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Title 136 WAC.

Purpose: Amends chapter 136-18 WAC, Standards of good practice—Day labor construction. Amends chapter 136-18 WAC by adding new section WAC 136-18-085 Determination day labor compliance by the county road administration board. Identifies a list for the county road administration board to consider when determining if a county has unreasonably exceeded its statutory day labor limit for the proceeding calendar year, as indicated in RCW 36.77.065(d).

Statutory Authority for Adoption: Chapter 36.79 RCW. Name of Agency Personnel Responsible for Drafting: Chris Mudgett, 2404 Chandler Court S.W., Suite 240, 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, 753-5989; and Enforcement: Jay Weber, 2404 Chandler Court S.W., Suite 240, 753-5989.

Name of Proponent: County Road Administration Board, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Amends chapter 136-18 WAC, Standards of good

Proposed [124]

practice—Day labor construction. Amends chapter 136-18 WAC by adding new section WAC 136-18-085 Determination day labor compliance by the county road administration board. Identifies a list for the county road administration board to consider when determining if a county has unreasonably exceeded its statutory day labor limit for the proceeding calendar year, as indicated in RCW 36.77.065(d).

Proposal Changes the Following Existing Rules: Amends chapter 136-18 WAC, Standards of good practice—Day labor construction. Amends chapter 136-18 WAC by adding new section WAC 136-18-085 Determination day labor compliance by the county road administration board. Identifies a list for the county road administration board to consider when determining if a county has unreasonably exceeded its statutory day labor limit for the proceeding calendar year, as indicated in RCW 36.77.065(d).

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: County Road Administration Board, 2404 Chandler Court S.W., Suite 280, Olympia, WA 98504-0913, on July 11, 2002, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Karen Pendleton by July 5, 2002, TDD (800) 833-6384, or (360) 753-5989.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, fax (360) 586-0386, by July 5, 2002.

Date of Intended Adoption: July 11, 2002.

May 9, 2002 Jay P. Weber Executive Director

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#### **NEW SECTION**

WAC 136-18-085 Determination of day labor compliance by the county road administration board. At its second regular meeting of each calendar year, the county road administration board shall determine if any county has unreasonably exceeded its statutory day labor limit for the preceding calendar year, as indicated in RCW 36.77.065. In determining what is unreasonable, the county road administration board shall consider the following:

- (1) Did the county provide prior notification of the possible day labor limit violation in writing to the county road administration board?
- (2) What is the amount of the excess day labor expenditure compared to the total annual county road construction expenditure for the same time period?
- (3) Are there extenuating circumstances beyond the control of the county that resulted in exceeding the statutory day labor limit?
- (4) What is the past record of the county regarding day labor compliance?

## WSR 02-11-120 PROPOSED RULES COUNTY ROAD ADMINISTRATION BOARD

[Filed May 21, 2002, 11:14 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Title 136 WAC.

Purpose: Amends WAC 136-04-020 Inquiry by the county road administration board. Amendment changes when the board will approve the standard of goods practice questionnaire from the first quarterly meeting of the calendar year to the last quarterly meeting of the calendar year.

Statutory Authority for Adoption: Chapter 36.79 RCW. Name of Agency Personnel Responsible for Drafting: Chris Mudgett, 2404 Chandler Court S.W., Suite 240, 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, 753-5989; and Enforcement: Jay Weber, 2404 Chandler Court S.W., Suite 240, 753-5989.

Name of Proponent: County Road Administration Board, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Amendment changes when the board will approve the standard of goods practice questionnaire from the first quarterly meeting of the calendar year to the last quarterly meeting of the calendar year.

Proposal Changes the Following Existing Rules: Amendment changes when the board will approve the standard of goods practice questionnaire from the first quarterly meeting of the calendar year to the last quarterly meeting of the calendar year.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: County Road Administration Board, 2404 Chandler Court S.W., Suite 280, Olympia, WA 98504-0913, on July 11, 2002, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Karen Pendleton by July 5, 2002, TDD (800) 833-6384, or (360) 753-5989.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, fax (360) 586-0386, by July 5, 2002.

Date of Intended Adoption: July 11, 2002.

May 9, 2002 Jay P. Weber Executive Director

<u>AMENDATORY SECTION</u> (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-04-020 Inquiry by the county road administration board. The executive director shall formulate a questionnaire for use by the counties designed to demonstrate to the county road administration board each county's level of compliance with pertinent laws and regulations. The pro-

posed questionnaire shall be reviewed and approved by the county road administration board at ((its first)) the last regularly scheduled meeting of each calendar year and may be revised and modified from year to year to reflect changes in statutory and regulatory requirements. The approved questionnaire shall be distributed to all counties no later than ((fifteen days after said meeting)) January 31 of the year following its approval.

## WSR 02-11-121 PROPOSED RULES COUNTY ROAD ADMINISTRATION BOARD

[Filed May 21, 2002, 11:14 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Title 136 WAC.

Purpose: Amends chapter 136-12 WAC, Standards of good practice—Vacancy in position of county engineer. Amends WAC 136-12-010, 136-12-020, 136-12-060, 136-12-070, and 136-12-080 and adds a new section WAC 136-12-045 to better identify the county's responsibility in reporting a county engineer vacancy in the county.

Statutory Authority for Adoption: Chapter 36.79 RCW. Name of Agency Personnel Responsible for Drafting: Chris Mudgett, 2404 Chandler Court S.W., Suite 240, 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, 753-5989; and Enforcement: Jay Weber, 2404 Chandler Court S.W., Suite 240, 753-5989.

Name of Proponent: County Road Administration Board, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Amends chapter 136-12 WAC, Standards of good practice—Vacancy in position of county engineer. Amends WAC 136-12-010, 136-12-020, 136-12-060, 136-12-070, and 136-12-080 and adds a new section WAC 136-12-045 to better identify the county's responsibility in reporting a county engineer vacancy in the county.

Proposal Changes the Following Existing Rules: Amends chapter 136-12 WAC, Standards of good practice—Vacancy in position of county engineer. Amends WAC 136-12-010, 136-12-020, 136-12-060, 136-12-070, and 136-12-080 and adds a new section WAC 136-12-045 to better identify the county's responsibility in reporting a county engineer vacancy in the county.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: County Road Administration Board, 2404 Chandler Court S.W., Suite 280, Olympia, WA 98504-0913, on July 11, 2002, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Karen Pendleton by July 5, 2002, TDD (800) 833-6384, or (360) 753-5989.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, fax (360) 586-0386, by July 5, 2002.

Date of Intended Adoption: July 11, 2002.

May 9, 2002 Jay P. Weber Executive Director

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-12-010 Purpose and authority. The laws of the state of Washington make detailed provisions in chapter 36.80 RCW, for the employment of a county engineer in each county. This chapter specifies that ((he/she shall be employed full time: Provided, That in counties with a population of less than eight thousand he/she may be employed on a part-time basis and may be the county-engineer of another county)) the county legislative authority of each county shall employ a county road engineer on either a full-time or part-time basis, or by contracting with another county for the engineering services of a county road engineer; that he/she shall be a registered and licensed professional civil engineer under the laws of this state; that he/she shall have supervision, under the direction of the county legislative authority, of all activities related to the county roads of the county, including maintenance; that he/she shall certify to the county legislative authority all bills with respect to county roads; that he/she shall keep complete public records of all road department activities; that he/she shall prepare plans and specifications for all construction work on the county road system. Since it is unavoidable that vacancies will occur from time to time in the position of county engineer, the following rule has been formulated to cover an interim period.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-12-020 Procedure during vacancy. When a vacancy occurs in the office of county engineer due to resignation, retirement, death or for any other reason, the county legislative authority shall take immediate steps to find a replacement, either by promotion from within the organization if a competent and eligible person is available, or by advertisement for, and interview of, qualified applicants. The county legislative authority or county executive shall ((immediately)), within five working days, notify the county road administration board of the vacancy, and of the procedure to be followed during the period of vacancy.

#### **NEW SECTION**

WAC 136-12-045 Notification of hiring. When final arrangements for the employment of a new county engineer have been made, the county legislative authority or the county executive shall, within five working days, notify the county road administration board in writing and shall include the following information: Name of new county engineer, Washington registration number, and e-mail address. In

addition, the notification shall include a copy of the revised organization chart for the public works department.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-12-060 Failure to comply ((with ruling)). ((When the county legislative authority has made final arrangements for the employment of a new county engineer meeting the requirements of chapter 36.80 RCW the county road administration board shall be notified accordingly.)) If ((no such)) notification is not received within ((six months of the beginning of the vacancy)) the time frame established in WAC 136-12-045, the matter of the vacancy will be considered at the next regular meeting of the county road administration board. The county road administration board may require that all day labor construction projects be shut down and/or that all distribution of gas tax funds to the county cease: Provided however, That it may continue to grant reasonable extensions in the event the affected county can give adequate proof or demonstrate at the next regularly scheduled board meeting that a diligent effort has been made to secure the services of a qualified engineer.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-12-070 County engineer in counties with a population of less than eight thousand. When the county legislative authority ((of a county with a population of less than eight thousand)) chooses to employ a county engineer on a part-time basis the terms of such employment shall be set forth in a contract adopted by resolution of the legislative authority. Such contract shall specify, but need not be limited to: Statement of legal responsibility, salary or wage arrangements, meetings with the legislative authority, travel expenses and relationship with regular employees. A copy of such resolution and contract shall be forwarded to the office of the county road administration board.

When the legislative authority chooses to contract with another county for services such contract shall be approved by resolution of both legislative authorities. Such contract shall specify, but need not be limited to: Statement of legal responsibility, salary or wage arrangements, meetings with the legislative authority, travel expenses and relationship with regular employees. A copy of the contract and both resolutions shall be forwarded to the office of the county road administration board. Any such contract shall be in accordance with the procedures of the Interlocal Cooperation Act, chapter 39.34 RCW.

AMENDATORY SECTION (Amending WSR 96-17-013, filed 8/12/96, effective 9/12/96)

WAC 136-12-080 Assistant county engineer in counties with a ((population of less than eight thousand)) parttime county engineer or a contract county engineer. When a legislative authority of a county ((with a population of less than eight thousand)) chooses to employ a licensed professional civil engineer on a part-time basis or contract with another county for the services of its licensed professional civil engineer, it shall designate by resolution a full-time employee as assistant county engineer. In such cases, the designated assistant county engineer shall perform the day to day supervision of the road department under the county engineer in accordance with policies established by the legislative authority.

# WSR 02-11-122 PROPOSED RULES COUNTY ROAD ADMINISTRATION BOARD

[Filed May 21, 2002, 11:15 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Title 136 WAC.

Purpose: Repeals chapter 136-10 WAC, Relationship of county engineer and county legislative authority. Repeals entire chapter to be replaced with new chapter 136-50 WAC to better identify the statutory relationship between the county engineer and county legislative authority and adopts written policies.

Statutory Authority for Adoption: Chapter 36.79 RCW.

Name of Agency Personnel Responsible for Drafting: Chris Mudgett, 2404 Chandler Court S.W., Suite 240, 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, 753-5989; and Enforcement: Jay Weber, 2404 Chandler Court S.W., Suite 240, 753-5989.

Name of Proponent: County Road Administration Board, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Repeals chapter 136-10 WAC, Relationship of county engineer and county legislative authority. Repeals entire chapter to be replaced with new chapter 136-50 WAC to better identify the statutory relationship between the county engineer and county legislative authority and adopts written policies.

Proposal Changes the Following Existing Rules: Repeals chapter 136-10 WAC, Relationship of county engineer and county legislative authority. Repeals entire chapter to be replaced with new chapter 136-50 WAC to better identify the statutory relationship between the county engineer and county legislative authority and adopts written policies.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: County Road Administration Board, 2404 Chandler Court S.W., Suite 280, Olympia, WA 98504-0913, on July 11, 2002, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Karen Pendleton by July 5, 2002, TDD (800) 833-6384, or (360) 753-5989.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, fax (360) 586-0386, by July 5, 2002.

Date of Intended Adoption: July 11, 2002.

May 9, 2002 Jay P. Weber Executive Director

# REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 136-10-010	Purpose and authority.
WAC 136-10-020	Duties of county legislative authority.
WAC 136-10-030	Duties of the county engineer.
WAC 136-10-035	Charter counties.
WAC 136-10-040	Organization of county road department.
WAC 136-10-050	Written policy.
WAC 136-10-060	Forwarding of written policy

# WSR 02-11-128 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed May 21, 2002, 11:22 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Working connections child care (WCCC). Purpose: WAC 388-290-0010, 388-290-0075, and 388-290-0085 are being revised to reduce the upper income limit for eligibility for the working connections child care program from 225% to 200% of the federal poverty level (FPL) and to increase copayments by \$5 at all levels. This filing will permanently adopt the emergency rule filed March 27, 2002, as WSR 02-08-032, which was effective April 1, 2002.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.085.

Statute Being Implemented: Chapters 74.04 and 74.13 RCW.

Summary: The upper income limit for eligibility for the WCCC program is being decreased from 225% to 200% of the FPL, and copayments are being increased by \$5 at all levels.

Reasons Supporting Proposal: The state is currently experiencing one of the largest budget shortfalls in its history. Program dollars must be distributed as efficiently as possible. To achieve this the department is lowering the income eligibility level for the subsidized child care program and increas-

ing copayments, which are the amounts paid to the providers by eligible families, by \$5 per month.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carla Gira, Program Manager, Lacey Government Center, 1009 College Street S.E., Lacey, WA 98503, (360) 413-3268.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will lower the income limit for eligibility for the working connections child care (WCCC) program from 225% to 200% of the federal poverty level (FPL). It will also increase copayments paid to child care providers by eligible families by \$5 at all levels. These changes are being made due to large budget shortfalls, and in an attempt to distribute the available funds as evenly as possible across the program. The effects will be fewer eligible families and slightly higher family copayments, resulting in a reduction in spending during this time of budget tightening.

Proposal Changes the Following Existing Rules: The eligibility limit for the working connections child care program is being decreased from 225% to 200% of the federal poverty level and family copayments are being increased by \$5 at all levels.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small business.

RCW 34.05.328 applies to this rule adoption. The rule meets the definition of a "significant legislative rule" but DSHS is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Office Building 2 - Auditorium (DSHS Headquarters) (parking at 12th and Washington), 1115 Washington, Olympia, WA 98504, on June 25, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 21, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaAX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 25, 2002.

Date of Intended Adoption: No sooner than June 26, 2002.

May 15, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0010 What makes me eligible for WCCC benefits? For the purposes of this chapter "we" and "us" refer to the department of social and health services. You may be eligible for WCCC benefits if:

- (1) Your family is described under WAC 388-290-0015;
- (2) ((<del>You're</del>)) <u>You are</u> participating in an approved activity under WAC 388-290-0040, 388-290-0045, or 388-290-0050:
- (3) You and your children are eligible under WAC 388-290-0020;
- (4) Your countable income, is at or below two hundred ((twenty-five)) percent of the Federal Poverty Level (FPL) (under WAC 388-290-0065); and
- (5) Your share of the child care cost, called a copayment (under WAC 388-290-0075) is lower than the total DSHS maximum monthly payment for all children in the family who are eligible for subsidized care.

AMENDATORY SECTION (Amending WSR 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0075 What are the steps the WCCC program takes to ((figure)) determine my family's WCCC eligibility and copayment amount? The WCCC program takes the following steps to ((figure)) determine your WCCC income eligibility and copayment:

- (1) Determine your family size (under WAC 388-290-0015); and
- (2) Determine your countable income (under WAC 388-290-0065).
- (3) If your family's countable monthly income falls within the range below, then your copayment is:

YOUR INCOME	YOUR COPAYMENT is:
At or below 82% of the FPL	\$(( <del>10</del> )) <u>15</u>
Above 82% of the FPL up to 137.5% of the FPL	\$(( <del>20</del> )) <u>25</u>
Above (( <del>137.50</del> )) <u>137.5%</u> of the FPL - (( <del>225</del> )) <u>200</u> % of the FPL	The dollar amount equal to subtracting 137.5% of FPL from countable income, multiplying by 44%, then adding \$((20)) 25
Income above ((225)) 200% of the FPL, you are not eligible for WCCC benefits.	

AMENDATORY SECTION (Amending 02-01-135, filed 12/19/01, effective 1/19/02)

WAC 388-290-0085 When might my WCCC copayment change? (1) Once we have determined that you are eligible for WCCC benefits, your copayment could change when:

- (a) Your activity changes under WAC 388-290-0040, 388-290-0045, or 388-290-0050;
  - (b) Your monthly income decreases;
  - (c) Your family size increases;
- (d) You are no longer eligible for the three-month TANF grant exemption under WAC 388-290-0070(h) or the minimum copayment under WAC 388-290-0090.
- (2) If your copayment changes during your eligibility period, the change is effective the first of the month following the change.
- (3) We do not increase your copayment during your current eligibility period when your countable income remains at

or below two hundred ((twenty-five)) percent of the FPL, and:

- (a) Your monthly countable income increases; or
- (b) Your family size decreases.

# WSR 02-11-129 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)
[Filed May 21, 2002, 11:26 a.m.]

Supplemental Notice to WSR 01-23-072.

Preproposal statement of inquiry was filed as WSR 00-23-049.

Title of Rule: New WAC 388-71-05949 What are the minimum requirements for an instructor for basic or modified basic training?

Purpose: Implementing SSB 6502, on training for Medicaid in-home services.

Other Identifying Information: This proposed rule was previously proposed as WAC 388-71-05950 in WSR 01-23-072.

Statutory Authority for Adoption: RCW 34.05.040, 74.39A.050.

Statute Being Implemented: Chapter 121, Laws of 2000. Summary: Implements instructor minimum qualifications for basic training.

Reasons Supporting Proposal: Implementing statute referenced above.

Name of Agency Personnel Responsible for Drafting: Dotti Wilke, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2539; Implementation and Enforcement: Marta Acedo, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2549.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule implements the RCW on training for Medicaid home care (agency and individual providers). The rule describes the requirements for instructors for basic training.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will not impose any additional cost to small businesses. A cost benefit analysis has been prepared, and a copy of this document may be obtained from the person listed below.

RCW 34.05.328 applies to this rule adoption. A cost benefit analysis has been prepared, and a copy of this document may be obtained from Tresa Harambasic, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2548, fax (360) 725-2646, e-mail haramtj@dshs.wa.gov.

Hearing Location: Office Building 2 - Auditorium (DSHS Headquarters) (parking at 12th and Washington), 1115 Washington, Olympia, WA 98504, on June 25, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by June 21, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs. wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 25, 2002.

Date of Intended Adoption: Not earlier than June 26, 2002.

May 14, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

# **NEW SECTION**

WAC 388-71-05949 What are the minimum qualifications for an instructor for basic or modified basic training? An instructor for basic or modified basic training must meet the following minimum qualifications:

- (1) General qualifications:
- (a) Twenty-one years of age;
- (b) Has not had a professional health care or social services license or certification revoked in Washington state. However, no license or certification is required.
  - (2) Education and work experience:
  - (a) Upon initial approval or hire, must have:
- (i) A high school diploma and one year of caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD per chapter 388-820 WAC, or home care setting; or
- (ii) An associate degree in a health field and six months caregiving experience within the last five years in an adult family home, boarding home, supported living through DDD per chapter 388-820 WAC, or home care setting.
  - (3) Teaching experience:
- (a) Must have one hundred hours of experience teaching adults on topics directly related to the basic training; or
- (b) Meet up to forty hours of the one hundred hours of teaching experience, hour for hour, by teaching while being mentored by an instructor who meets these qualifications, and must attend a class on adult education that meets the requirements of WAC 388-71-05951.
- (4) The instructor must be experienced in caregiving practices and capable of demonstrating competency with respect to the course content or units being taught;
- (5) Instructors who will administer tests must have experience or training in assessment and competency testing; and
- (6) If required under WAC 388-71-05923 or 388-71-05929, instructors must successfully complete basic or modified basic training prior to beginning to train others.

# WSR 02-11-131 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed May 21, 2002, 11:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-01-008.

Title of Rule: Amending WAC 388-460-0001 Who may be issued cash, child care, medical and food assistance benefits?; and new WAC 388-460-0020 Who is a protective payee?, 388-460-0025 Who can be a protective payee?, 388-460-0030 When is an emergency or temporary protective payee (TANF/SFA) used?, 388-460-0035 When is a protective payee assigned for mismanagement of funds?, 388-460-0040 When is a protective payee assigned to TANF/SFA pregnant or parenting minors?, 388-460-0045 Are clients in WorkFirst sanction status assigned protective payees?, 388-460-0050 When is a client transferred from a protective payee to guardianship?, 388-460-0055 What are the protective payee's responsibilities?, 388-460-0060 When are protective payee plans done?, 388-460-0065 When is the protective payee status ended and how is a protective payee changed?, and 388-460-0070 What are your fair hearing rights regarding protective payment?

Purpose: This filing will migrate chapter 388-265 WAC into chapter 388-460 WAC to have all payee WACs in the same section and simplify the protective payee policy.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, and 74.08A.340.

Statute Being Implemented: RCW 74.08.090, 74.04.-050, 74.08A.340, and WSR 99-14-043.

Summary: These WACs will simplify the protective payee policy and introduce the following changes: Protective payees and their staff will now have to pass new more stringent criminal background checks; clients using EBT funds for the purposes of gambling will be assigned a protective payee to manage their funds; protective payee plans will now be required if a client has expenses other than rent and utilities; and clarifies that only minor parents that a [are] head of household must have a protective payee.

Reasons Supporting Proposal: To simplify the language and to add new conditions for the protective payee program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ian Horlor, Lacey Government Center, 1009 College Street S.E., Lacey, WA 98503, (360) 413-3247.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule changes bring the protective payees into the same chapter as the other payees.

The rule changes are to simplify and clarify how and when a protective payee is assigned. It clarifies who can be a protective payee and the requirements the protective payee must meet. The effect of the changes is to streamline and make more understandable the protective policy and process.

Proposal Changes the Following Existing Rules: These WACs will simplify the protective payee policy and introduce the following changes:

- Criminal background checks requirement for pay-
- Using EBT funds for gambling results in a protective payee.
- Revised when a protective payee plan is required.
- Introduced new language to clarify that only minor parents that are a head of household must have a protective payee.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. The rules are exempt under RCW 34.05.328 (5)(b)(vii).

Office Building 2 Auditorium Hearing Location: (DSHS Headquarters) (parking at 12th and Washington), 1115 Washington, Olympia, WA 98504, on June 25, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by May [June] 21, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., June 25, 2002.

Date of Intended Adoption: No sooner than June 26, 2002.

May 17, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-460-0001 ((Payee for)) Who may be issued cash, child care, medical and food assistance benefits((\*))? (1) Cash and child care assistance may be issued in the name of the following persons:

- (a) A client who is the recipient of the benefits;
- (b) An ineligible parent or other relative ((receiving)) getting benefits on behalf of an eligible child;
- (c) A person, facility, organization, institution or agency acting as a protective payee or representative payee for a cli-
  - (d) A guardian or agent acting on behalf of a client; or
- (e) A vendor of goods or services supplied to an eligible client.
- (2) When medical coverage accompanies cash assistance, the medical identification (MAID) card for the assistance unit members is issued in the name of the person listed as payee for the cash benefit.
- (3) For other medical assistance units, the MAID card is issued to the person named as the head of the assistance unit.

(4) Food assistance benefits are issued to the person named as the head of the food assistance unit.

# **NEW SECTION**

WAC 388-460-0020 Who is a protective payee? (1) A protective payee is a person or an employee of an agency who manages client cash benefits to provide for basic needs housing, utilities, clothing, child care, and food. They may also provide services such as training clients how to manage money.

- (2) Clients are assigned to protective payees for the following reasons:
- (a) Emergency or temporary situations where a child is left without a caretaker (TANF/SFA) per WAC 388-460-
- (b) Mismanagement of money (TANF/SFA, GA, or WCCC) per WAC 388-460-0035;
- (c) Noncooperation with WorkFirst program requirements per WAC 388-310-1600 or 388-310-1650; or
- (d) Pregnant or parenting minors per WAC 388-460-0040.

# **NEW SECTION**

WAC 388-460-0025 Who can be a protective payee? (1) Clients may ask for a particular protective payee, but the department makes the final choice.

- (2) Protective payees must contract with the department, except for employees of the department who are assigned this function as part of their job duties.
- (3) The contracted protective payee and their staff must pass a criminal background check per WAC 388-06-0170, 388-06-0180 and 388-06-0190.
- (4) A departmental employee acting as a protective payee cannot:
  - (a) Have the client in their caseload,
- (b) Have the client in the caseloads of other employees under their supervision,
- (c) Be responsible for determining or issuing benefits for the client.
  - (d) Be the office administrator, or
  - (e) Be a special investigator.
- (5) For TANF/SFA, a department employee cannot act as a protective payee when the department has legal custody or responsibility for placement and care of the child.

### **NEW SECTION**

WAC 388-460-0030 When is an emergency or temporary protective payee (TANF/SFA) used? An emergency or temporary protective payee is assigned when a caretaker relative or adult acting in loco parentis per WAC 388-454-0005 is not available to take care of and supervise a child due to an emergency.

#### **NEW SECTION**

WAC 388-460-0035 When is a protective payee assigned for mismanagement of funds? (1) The decision to assign a person to a protective payee because of mismanagement of funds must be based on law or with proof the client is unable to manage their cash benefits. The proof must be current and show how this threatens the well being of a child or client on TANF/SFA, GA or WCCC. Examples of proof are:

- (a) Department employees or others observe that the client or client's children are hungry, ill, or not adequately clothed;
- (b) Repeated requests from the client for extra money for basic essentials such as food, utilities, clothing, and housing;
- (c) A series of evictions or utility shut off notices within the last twelve months;
- (d) Medical or psychological evaluations showing an inability to handle money;
- (e) An ADATSA alcohol/drug assessment establishing incapacity due to substance abuse;
- (f) Not paying an in home child care provider for services when payment has been issued to the client by the department for that purpose;
- (g) A complaint from businesses showing a pattern of failure to pay bills or rent;
- (h) Using public assistance electronic benefits transfer (EBT) card or cash obtained through EBT to purchase or pay for lottery tickets, pari-mutuel wagering, or any of the activities authorized under chapter 9.46 RCW.
- (2) A lack of money or a temporary shortage of money because of an emergency does not constitute mismanagement
- (3) When a client has a history of mismanaging money, benefits can be paid through a protective payee or directly to a vendor.

# **NEW SECTION**

WAC 388-460-0040 When is a protective payee assigned to TANF/SFA pregnant or parenting minors? Pregnant or parenting minors must be assigned to protective payees if the clients are:

- (1) Head of a household;
- (2) Under age eighteen;
- (3) Unmarried; and
- (4) Pregnant or have a dependent child.

### **NEW SECTION**

WAC 388-460-0045 Are clients in WorkFirst sanction status assigned protective payees? (1) Clients in sanction status for noncooperation or nonparticipation in WorkFirst work activities are assigned to protective payees following the rules in WAC 388-310-1600 and 388-310-1650.

(2) Clients in sanction status remain in protective payee status until they cooperate with WorkFirst and the sanction is removed, as long as they are receiving assistance.

# **NEW SECTION**

WAC 388-460-0050 When is a client transferred from a protective payee to guardianship? (1) In emergency cases where a person is physically or mentally unable to man-

age their own funds, the client is referred to other divisions of the department for full care, including guardianship.

- (2) In cases where a child is eligible for TANF/SFA and the caretaker relative does not use the benefits for adequate care of the child, the case can be referred to the attorney general to establish a limited guardianship.
- (3) Guardianships are used only if it appears there is a need for services that are expected to last longer than two years.
- (4) These guardianships are limited to management of DSHS benefits.
- (5) The protective payee plan is changed if a guardian is appointed. The guardian is designated as the payee.

# **NEW SECTION**

WAC 388-460-0055 What are the protective payee's responsibilities? The protective payee's responsibilities are to:

- (1) Manage client cash and child care assistance benefits to pay bills for basic needs, such as housing and utilities, or as directed in the protective payee plans;
- (2) Provide money management for client if this item is included in the protective payee plans;
- (3) Encourage clients to comply with WorkFirst and other program requirements, such as getting a job or attending school; and
  - (4) Provide reports to the department on client progress.

# **NEW SECTION**

WAC 388-460-0060 When are protective payee plans done? A protective payee plan may be developed when a case is assigned to a protective payee.

- (1) A copy of the plan is provided to the protective payee and the client.
- (2) All cases, except for when a protective payee is assigned due to sanction status, must be reviewed:
  - (a) After an initial three-month period; and
- (b) At least every six months beyond the initial period for on going cases.
  - (3) Reviews include evaluation of:
- (a) The need for the client to continue in protective payee status; or
  - (b) The need to change the plan; or
- (c) The client's potential to assume control of their funds (or be removed from protective payee status); and
  - (d) Protective payee performance.

# **NEW SECTION**

WAC 388-460-0065 When is the protective payee status ended and how is a protective payee changed? A client may be removed from a protective payee status when a:

- (1) Protective payee requests the client be reassigned;
- (2) The department assigns a different protective payee; or
  - (3) Protective payee is no longer required.

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# **NEW SECTION**

WAC 388-460-0070 What are your fair hearing rights regarding protective payment? You have the right for a fair hearing if you disagree with the department's decision to:

- (1) Assign payment of benefits through a protective payee,
  - (2) Continue the assignment,
  - (3) Change the protective payee selected for you, or
  - (4) Change the contents of your protective payee plan.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-265-1150	Protective payee—General information.
WAC 388-265-1155	Protective payee selection.
WAC 388-265-1200	Emergency and temporary protective payees (TANF/SFA).
WAC 388-265-1250	Protective payee or vendor payment due to mismanagement of money.
WAC 388-265-1275	Assigning TANF/SFA or GA pregnant or parenting minors to protective payee.
WAC 388-265-1300	Assigning TANF/SFA clients sanctioned for noncooperation or nonparticipation with WorkFirst activities to protective payees.
WAC 388-265-1375	Transfer from protective payees to guardianship.
WAC 388-265-1450	Protective payee responsibility and fees.
WAC 388-265-1500	Protective payee plans.
WAC 388-265-1600	Ending protective payee status and changing payees.
WAC 388-265-1650	Your fair hearing rights regarding protective payment.

# WSR 02-11-133 PROPOSED RULES SECRETARY OF STATE

[Filed May 21, 2002, 2:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-08-013.

Title of Rule: An electronic system to file declarations of candidacy.

Purpose: Rules are established to establish a definition and standards for the implementation of a system to file declarations of candidacy electronically.

Statutory Authority for Adoption: Section 3, chapter 140, Laws of 2002.

Statute Being Implemented: Chapter 140, Laws of 2002.

Summary: An electronic system to file declarations of candidacy shall be an online system accessible to candidates on the world wide web that records information required in statute.

Reasons Supporting Proposal: The system will be more efficient for the Office of the Secretary of State and more convenient for candidates across the state.

Name of Agency Personnel Responsible for Drafting: Bill Huennekens, Office of the Secretary of State, (360) 902-4169; Implementation and Enforcement: Dean Logan, Office of the Secretary of State, (360) 902-4180.

Name of Proponent: Office of the Secretary of State, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: These rules define and establish standards for a system to file declarations of candidacy electronically, determine which jurisdictions may accept electronically filed declarations of candidacy, and allow interlocal agreements to provide electronic filing services.

Proposal Changes the Following Existing Rules: Changes rules to allow for the implementation of a system to file declarations of candidacy electronically, transfer filing information electronically to the public disclosure commission, and allowing the acceptance of a voter registration form by electronic facsimile.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impact small businesses.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(ii) establishes that this section does not apply to rules relating only to internal governmental operations.

Hearing Location: Office of the Secretary of State, 520 Union Avenue S.E., Olympia, WA, on June 26, 2002, at 9:00.

Assistance for Persons with Disabilities: Contact Bill Huennekens by June 21, 2002, TDD (800) 422-8683, or (360) 902-4169.

Submit Written Comments to: Bill Huennekens, Office of the Secretary of State, P.O. Box 40229, Olympia, WA 98584 [98504], fax (360) 586-5629, by June 26, 2002.

Date of Intended Adoption: July 23, 2002.

May 21, 2002 Steve Excell Assistant Secretary of State AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-215-012 Declaration of candidacy—Offices subject to a primary. Declarations of candidacy for all partisan and nonpartisan offices ((shall be)) filed either in person or by mail shall be in substantially the following form:

> Place Illustration Here (WAC 434-215-012, Illus. 1) Place illustration here.

FILING DATA FOR OFFICE USE ONLY				
Date/Time		Fee Paid \$	File No	
Paid By (Check	∐Other		Office	
Cash	Nom. Petition	Clerk/Cashier initials	Code:	

# DECLARATION OF CANDIDACY \_ am a registered voter residing at: (STREET ADDRESS OR RURAL ROUTE WHERE REGISTERED TO VOTE) (COUNTY) (ZIP CODE) (MAILING AODRESS) (COUNTY) (TELEPHONE NO.) (EMAIL ADORESS) and at the time of filing this declaration I am legally qualified to assume office if elected. 3. I declare myself as a candidate for nomination to the office of: (NAME OF OFFICE) (CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION) (POSITION NUMBER IF APPLICABLE) (DIRECTOR OR COMMISSIONER DISTRICT, IF ANY) For the following term of office: A full term or a full term and a short term, or An unexpired term 5. This office is: ■ Nonpartisan, or Partisan, and I am: a candidate of the an independent candidate nominated pursuant to chapter 29.24 RCW. Filing Fee (Check one): There is no filing fee because the office has no fixed annual salary, or I am submitting a filing fee of \$10 because the fixed annual salary of the office being sought is \$1,000 or less, or I am submitting a filing fee of \$\_ \_\_, an amount equal to 1% of the annual salary, or I am without sufficient assets or income to pay the filing fee required by law and I have attached a nominating petition in lieu of this fee, pursuant to RCW 29.15.050. 7. Please print my name on the ballot exactly as follows: I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington. Note: Your signature must be personally attested to either by a notary public or by the officer with whom the declaration is filed. 8. Sign Here X (SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE) STATE OF WASHINGTON, COUNTY OF SIGNED OR ATTESTED BEFORE ME ON (CANDIDATE) (SEAL OR STAMP) (SIGNATURE OF NOTARY) (TITLE) MY APPOINTMENT EXPIRES

SSE 84-1 (2002)

Candidate: Return all copies of this declaration to the filing officer. Distribution by the filing officer: White—County; Yellow—PDC; Pink—Candidate

The form((s)) shall measure eight and one-half inches by eleven inches and be printed on paper stock of good quality. The form shall also contain space for recording the date and time of filing and a sequential filing and receipt number. One copy of the form or an electronic file, in a format approved by the secretary of state and acceptable to the public disclosure commission, containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be forwarded to the public disclosure commission as required by RCW 29.15.030, and one copy of the form or an electronic file containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be returned to the candidate.

#### **NEW SECTION**

WAC 434-215-070 Definition and standards for systems to file declarations of candidacy electronically. An electronic system to file declarations of candidacy shall be an online system accessible to candidates on the world wide web that records the information specified in RCW 29.15.010 (1) through (4) and WAC 434-215-090. At a minimum, the system shall perform the following functions:

- (1) Verify the candidate's voter registration status;
- (2) Check the candidate's name against the name returned by electronic transfer of funds process;
- (3) Allow the filing officer to verify filings before filing information is made public;
- (4) Accept electronic transfer of funds for the payment of filing fees required by RCW 29.15.050, except that a candidate submitting a nominating petition in the place of a filing fee may not file the declaration of candidacy electronically;
- (5) Inform, and require the candidate to acknowledge, that submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitution and laws of the United States and the state of Washington, and that he or she agrees to electronic payment of the filing fee established in RCW 29.15.050; and
- (6) Inform the candidate that knowingly providing false information on a declaration of candidacy is a class C felony as provided by RCW 29.85.100.

#### **NEW SECTION**

WAC 434-215-080 Jurisdictions eligible to accept electronically filed declarations of candidacy. The secretary of state and county auditors may accept electronically filed declarations of candidacy for any office for which they are authorized to accept filings provided by RCW 29.15.030. Any system designed to accept electronically filed declarations of candidacy must comply with the requirements of WAC 434-215-070.

# **NEW SECTION**

WAC 434-215-090 Information requirements for electronically filed declarations of candidacy beyond

those required in RCW 29.15.010. At a minimum, electronically filed declarations of candidacy shall provide:

- (1) The month and day of the candidate's date of birth;
- (2) An electronic mail address, phone number, and mailing address where the candidate may be contacted.

#### **NEW SECTION**

WAC 434-215-110 Interlocal agreements to provide electronic filing services. The secretary of state may enter into interlocal agreements with county auditors to provide services in order that county auditors may accept electronic filings. Nothing in an agreement shall contravene RCW 29.15.030, determining where candidates file for office.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-208-060 Filing of electronic facsimile documents. In addition to those documents specified by RCW 29.04.230, the secretary of state or the county auditor shall accept and file in his or her office electronic facsimile transmissions of the following documents:

- (1) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law:
- (2) Any minor party or independent candidate filing material except nominating petitions;
- (3) Lists of presidential electors selected by political parties or independent candidates;
- (4) Voted ballots, provided the voter agrees to waive the secrecy of his or her ballot;
- (5) Resolutions from cities, towns, and other districts calling for a special election;
- (6) Filling of vacancies on the ticket by a major political party;
  - (7) Voter registration form.

# WSR 02-11-138 PROPOSED RULES DEPARTMENT OF NATURAL RESOURCES

[Filed May 21, 2002, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-023.

Title of Rule: Definition of Class II forest practices, salvage of logging residue.

Purpose: Changes would correct an error to WAC 222-16-050 that, if implemented as written, would likely result in damage to public resources and an inconsistency with the definition of Class II forest practices in RCW 76.09.050.

Other Identifying Information: WAC 222-16-050 Classes of forest practices.

Statutory Authority for Adoption: RCW 76.09.040, 76.09.050, 76.09.370.

Statute Being Implemented: Chapter 280, Laws of 2001.

Summary: The existing rules under WAC 222-16-050, that became effective on July 1, 2001, contain an error that would classify the salvage of logging residue as a Class II forest practice, regardless of whether this action occurs within a riparian management zone of a Type F water, within a bankfull width of a Type Np water, within a wetland or wetland management zone, or involves the use of mechanized equipment on slopes greater than 40%.

Reasons Supporting Proposal: The current rule language is outside the original intent of the Forest Practices Board and could result in damages to public resources. Additionally, this error causes existing rules to be inconsistent with chapter 76.09 RCW.

Name of Agency Personnel Responsible for Drafting: Debora Brown Munguia, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1448; Implementation: Garry Gideon, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1483; and Enforcement: Lenny Young, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1744.

Name of Proponent: Forest Practices Board, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The existing rules under WAC 222-16-050, that became effective on July 1, 2001, contain an error that would classify the salvage of logging residue as a Class II forest practice, regardless of whether this action occurs within a riparian management zone of a Type F water, within a bankfull width of a Type Np water, within a wetland or wetland management zone, or involves the use of mechanized equipment on slopes greater than 40%.

Proposal Changes the Following Existing Rules: WAC 222-16-050 (4)(d), would remove salvage of logging residue from being categorized as a Class II forest practice if it occurs in an area with specific landscape features where damage to public resources is likely to occur, including within an RMZ of a Type F water, within the bankfull width of a Type Np water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, or if it involves off road use of equipment on a sideslope of greater than 40%.

WAC 222-16-050 (4)(e), removes language indicating that salvage of logging residue is a Class II forest practice.

WAC 222-16-050 (4)(f), corrects formatting.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is intended to correct an error that was made during previous rule making to WAC 22-16-050 and would preserve the original intent of the forest practices rules effective July 1, 2001, for which a small business economic impact statement was already prepared.

RCW 34.05.328 does not apply to this rule adoption. This rule is intended to correct an error that was made during previous rule making to WAC 222-16-050 and would preserve the original intent of the forest practices rules effective July 1, 2001, for which a cost benefit analysis was already prepared.

Hearing Location: Natural Resources Building, 1111 Washington Street S.E., Fourth Floor, Room 461, Olympia, WA 98504, on July 16, 2002, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Josh Brown by July 1, 2002, TDD (360) 902-1125, or (360) 902-1480.

Submit Written Comments to: Patricia Anderson, Rules Coordinator, Forest Practices Board, P.O. Box 47012, Olympia, WA 98504-4701, e-mail forest.practicesboard@wadnr.gov, fax (360) 902-1428, by July 17, 2002.

Date of Intended Adoption: August 14, 2002.

May 21, 2002 Ron Teissere for Pat McElroy Chair

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC \*222-16-050 Classes of forest practices. There are 4 classes of forest practices created by the act. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices rules.

- (1) "Class IV special." Except as provided in WAC 222-16-051, application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.
- \*(a) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.
- (b) Specific forest practices listed in WAC 222-16-080 on lands designated as critical habitat (state) of threatened or endangered species.
- (c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF within any developed park recreation area and park managed salvage of merchantable forest products.
- \*(d) Timber harvest, or construction of roads, landings, gravel pits, rock quarries, or spoil disposal areas, on potentially unstable slopes or landforms described in (i) below that has the potential to deliver sediment or debris to a public resource or that has the potential to threaten public safety, and which has been field verified by the department (see WAC 222-10-030 SEPA policies for potential unstable slopes and landforms).
- (i) For the purpose of this rule, potentially unstable slopes or landforms are one of the following: (See the board manual section 16 for more descriptive definitions.)
- (A) Inner gorges, convergent headwalls, or bedrock hollows with slopes steeper than 35 degrees (70%);

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- (B) Toes of deep-seated landslides, with slopes steeper than 33 degrees (65%);
- (C) Ground water recharge areas for glacial deep-seated landslides;
- (D) Outer edges of meander bends along valley walls or high terraces of an unconfined meandering stream; or
- (E) Any areas containing features indicating the presence of potential slope instability which cumulatively indicate the presence of unstable slopes.
- (ii) The department will base its classification of the application/notification on professional knowledge of the area, information such as soils, geologic or hazard zonation maps and reports or other information provided by the applicant
- (iii) An application would not be classified as Class IV-Special for potentially unstable slopes or landforms under this subsection if:
- (A) The proposed forest practice is located within a WAU that is subject to an approved watershed analysis;
- (B) The forest practices are to be conducted in accordance with an approved prescription from the watershed analysis (or as modified through the 5-year review process); and
- (C) The applicable prescription is specific to the site or situation, as opposed to a prescription that calls for additional analysis. The need for an expert to determine whether the site contains specific landforms will not be considered "additional analysis," as long as specific prescriptions are established for such landforms.
- \*(e) Timber harvest, in a watershed administrative unit not subject to an approved watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation and local government, as high avalanche hazard where there is the potential to deliver sediment or debris to a public resource, or the potential to threaten public safety.
- (f) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided for in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.
- \*(g) Forest practices subject to an approved watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.
- \*(h) Filling or draining of more than 0.5 acre of a wetland.
- (2) "Class IV general." Applications involving the following circumstances are "Class IV general" forest practices unless they are listed in "Class IV special." Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-

- 11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.
- (a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use
- (b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-16-060 and 222-34-050.)
- (3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV Special" are not present, these operations may be commenced without notification or application.
  - (a) Culture and harvest of Christmas trees and seedlings.
- \*(b) Road maintenance except: (i) Replacement of bridges and culverts across Type S, F or flowing Type Np Waters; or (ii) movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.
- \*(c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.
- \*(d) Construction of less than 600 feet of road on a sideslope of 40 percent or less if the limits of construction are not within the shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.
- \*(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type S Water and does not involve disturbance of the beds or banks of any waters.
- \*(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.
  - (g) Rocking an existing road.
  - (h) Loading and hauling timber from landings or decks.
- (i) Precommercial thinning and pruning, if not within the CRGNSA special management area.
  - (i) Tree planting and seeding.
- (k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period, if not within the CRGNSA special management area.
  - (1) Emergency fire control and suppression.
- (m) Slash burning pursuant to a burning permit (RCW 76.04.205).

- \*(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type S Water, the riparian management zone of any Type F Water, or the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.
- \*(o) Ground application of chemicals, if not within the CRGNSA special management area. (See WAC 222-38-020 and 222-38-030.)
- \*(p) Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than 40 contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.
- (q) Forestry research studies and evaluation tests by an established research organization.
- \*(r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type S Water or the riparian management zone of a Type F Water, the bankfull width of a Type Np Water or flowing Type Ns Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:
- (i) Any forest practices within the boundaries of existing golf courses.
- (ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.
- (iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.
- (s) Removal of beaver structures from culverts on active and inactive roads. A hydraulics project approval from the Washington department of fish and wildlife may be required.
- (4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: Provided, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW 75.20.100) or is within a "shorelines of the state," or involves owner of perpetual timber rights subject to RCW 76.09.067 (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:
- (a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.
- (b) Renewal of a previously approved Class III or IV forest practice application where:
- (i) No modification of the uncompleted operation is proposed;

- (ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and
- (iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal. Renewal of a previously approved multiyear permit for forest practices within a WAU with an approved watershed analysis requires completion of a necessary 5-year review of the watershed analysis.
- \*(c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:
  - (i) Construction of advance fire trails.
- (ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.
- \*(d) ((Any of the following)) Salvage of logging residue if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent.
  - \*(e) ((Salvage of logging residue.
- \*(f))) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):
- (i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.
- (ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.
- (iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.
  - (iv) Any harvest on less than 40 acres.
- (v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.
- (5) "Class III." Forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:
- (a) Those requiring hydraulic project approval (RCW 75.20.100).
- \*(b) Those within the shorelines of the state other than those in a Class I forest practice.
- \*(c) Aerial application of insecticides, except where classified as a Class IV forest practice.
- \*(d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

- \*(e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.
- \*(f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.
- (g) Opening of new pits or extensions of existing pits over 1 acre.
  - \*(h) Road maintenance involving:
- (i) Replacement of bridges or culverts across Type S, F or flowing Type Np Waters; or
- (ii) Movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.
- (i) Operations involving owner of perpetual timber rights subject to RCW 76.09.067.
- (j) Site preparation or slash abatement not listed in Classes I or IV forest practices.
- (k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:
- (i) On or are eligible for listing on the National Register of Historic Places; or
- (ii) Have been identified to the department as being of interest to an affected Indian tribe.
- (l) Harvesting exceeding 19 acres in a designated difficult regeneration area.
- (m) Utilization of an alternate plan. See WAC 222-12-040.
- \*(n) Any filling of wetlands, except where classified as Class IV forest practices.
  - \*(o) Multiyear permits.

# WSR 02-11-143 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)
[Filed May 22, 2002, 10:23 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Chapter 388-825 WAC, Division of developmental disabilities service rules; chapter 388-830 WAC, Division of developmental disabilities program option rules; chapter 388-835 WAC, ICF/MR program and reimbursement system; chapter 388-850 WAC, County plan for developmental disabilities; and chapter 388-853 WAC, Cost of care of mentally deficient persons residing in state institutions.

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-13 issue of the Register.

Purpose: The proposed amendments make corrections to obsolete or incorrect WAC and RCW cross-references without changing the effect of the rules; therefore a preproposal statement of inquiry was not filed per RCW 34.05.310(4).

Statutory Authority for Adoption: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, and RCW 72.01.090.

Statute Being Implemented: RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, and RCW 72.01.090.

Summary: The proposed amendments only make corrections to obsolete or incorrect WAC and RCW cross-references without changing the effect of the rules; therefore a preproposal statement of inquiry was not filed per RCW 34.05.310(4).

Reasons Supporting Proposal: These rules have been rewritten to correct erroneous WAC references and do not change their effect.

Name of Agency Personnel Responsible for Drafting: Jeannie T. Gorski, P.O. Box 45310, Olympia, WA 98504-45310 [98504-5310], (360) 902-7562; Implementation and Enforcement: Chris Coleman, P.O. Box 45310, Olympia, WA 98504-45310 [98504-5310], (360) 902-8478.

Name of Proponent: Department of Social and Health Services, Health and Rehabilitative Services Administration, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This action is intended to correct erroneous cross-references. The anticipated effect is to direct the reader to the correct reference.

Proposal Changes the Following Existing Rules: The proposed amendments make corrections to obsolete or incorrect WAC and RCW cross-references without changing the effect of the rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Since the proposed amendments do not "make significant amendments to a policy or regulatory program" (see RCW 34.05.328 (5)(c)(iii)), the Division of Developmental Disabilities has determined that the proposed rules are not "significant" as defined by the legislature. These rules have been rewritten to correct erroneous WAC and RCW references and do not change their effect. Therefore, under RCW 34.05.328 (5)(b)(iv), these proposed chapters are exempt from needing a cost-benefit analysis.

RCW 34.05.328 does not apply to this rule adoption. The Division of Developmental Disabilities has determined that the proposed amendments do not make significant amendments to a policy or regulatory program as defined in RCW 34.05.328 (5)(c)(iii).

Hearing Location: Office Building 2 Auditorium (DSHS Headquarters) (parking at 12th and Washington), 1115 Washington, Olympia, WA 98504, on July 23, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by July 19, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs. wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360)

664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., July 23, 2002.

Date of Intended Adoption: Not earlier than July 24, 2002.

May 15, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-13 issue of the Register.

# WSR 02-11-151 PROPOSED RULES DEPARTMENT OF ECOLOGY

[Order 01-12—Filed May 22, 2002, 11:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-24-099.

Title of Rule: Chapter 173-50 WAC, Accreditation of environmental laboratories.

Purpose: This amendment will allow ecology to grant accreditation for tests on matrices other than water, for physical tests, and for drinking water tests, and to grant accreditation as a national environmental laboratory accreditation program (NELAP) accrediting authority. Also, the revision will allow collection of sufficient fees to make the accreditation program self supporting.

Other Identifying Information: All resources for implementation of the laboratory accreditation program come from the general fund and are partially offset by collection of fees. The offset currently covers direct costs, which are approximately two-thirds of total costs. This rule revision will allow fee collections to balance program expenditures.

Statutory Authority for Adoption: RCW 43.21A.230.

Statute Being Implemented: Chapter 43.21A RCW allows but does not require this rule.

Summary: Chapter 173-50 WAC establishes the procedures to be taken by environmental laboratories to become accredited and thus meet state requirements for use of accredited labs. Department of Health has an essentially identical program for accreditation of labs that submit drinking water data. The amended chapter 173-50 WAC will combine these two programs. The amended WAC will also allow ecology to accredit for tests of soil, tissue, air, and other nonwater matrix samples. It will also allow but not require ecology to become a national environmental laboratory accreditation program accrediting authority.

Reasons Supporting Proposal: Combining the lab accreditation programs will be a significant advantage to labs participating in both ecology's and health's programs. Accreditation for matrices in addition to water will assure labs have a demonstrated capability to provide reliable data for such samples. Designating ecology as a NELAP accrediting authority will allow Washington labs to gain NELAP accreditation without incurring the additional (travel) cost of having another state provide that service. A revised fee

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schedule will afford ecology full compensation for the cost of administering the accreditation program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Perry Brake, Supervisor, Ecology Lab Accreditation Unit, 2350 Colchester Drive, P.O. Box 488, Manchester, WA 98353-0488, (360) 895-6149.

Name of Proponent: Department of Ecology, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 173-50 WAC needs to be expanded to include granting accreditation for tests on matrices other than water, for physical tests and for drinking water tests. The WAC currently allows granting such accreditations, but does not allow collecting fees for these services. Furthermore, there is a need for the department to become an accrediting authority within the national environmental laboratory accreditation program (NELAP). All resources for implementation of the laboratory accreditation program come from the general fund and are partially offset by collection of fees. The offset currently covers direct costs, which are approximately two-thirds of total costs. The primary objective of this rule revision is to allow fee collections to balance program expenditures.

Proposal Changes the Following Existing Rules: This revision of chapter 173-50 WAC will negate the need for chapter 246-390 WAC, Department of Health's drinking water certification rules.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Requirement for Small Business Economic Impact Statement (SBEIS): The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules having an economic impact on more than 20% of all industries, or more than 10% of the businesses in any one industry, be reviewed and altered to minimize their impact upon small businesses. Further, the Economic Policy Act, chapter 43.21H RCW, suggests consideration of economic values in general during the rule-making process. The regulatory proposals in amending chapter 173-50 WAC, Accreditation of environmental laboratories, have been reviewed in light of both requirements. Conclusions of that review are summarized in this small business economic impact statement (SBEIS) which is designed to satisfy the intent of chapter 43.21H RCW while concentrating on the specific requirements of chapter 19.85 RCW.

Scope of SBEIS: As intended by the cited acts, this impact statement deals with laboratories operated within the private sector of the economy. Some laboratories affected by the rule are also operated by government entities (cities, counties, water and sewer districts, publicly-owned utilities, state, and federal agencies). The impact of fee changes proposed by this rule amendment is not examined in this SBEIS other than to state here that for the smaller of those government entities, the proposed fee increase is insignificant, amounting to an increase of 2.5% for most, and for some, a small decrease. Section I addresses proposed increases

which will have a continuing impact because those fees are paid each year. Section II addresses associated (indirect) costs which may be incurred by some entities in preparing for accreditation of their laboratories for new analytical procedures not previously accredited. Generally, these costs will impose a noncontinuing (one-time) impact. Finally, Section III summarizes actions that have been taken or are proposed to mitigate the impact of accreditation fees on those small businesses for which the fee increase is found to be significant.

**Summary of Proposed Rule Amendments:** The environmental laboratory accreditation program implementing chapter 173-50 WAC needs to be expanded to include granting accreditation:

- For tests on matrices other than water;
- For physical tests;
- To labs that analyze drinking water and report resulting data to Department of Health; and
- As a national environmental laboratory accreditation program (NELAP) accrediting authority.

The current version of chapter 173-50 WAC would allow granting these new accreditations, but without amendment, it would not allow the department to collect fees for these services. All resources for implementation of the laboratory accreditation program come from the general fund, and are offset by collection of fees. The primary objective of this rule revision is to allow fee collections to balance program expenditures as program staff is increased to allow providing the new services to accredited labs. There will be no new industries entering the accreditation program because of the proposed rule revisions. Furthermore, the proposed rule revisions alone will not cause any new business within any given industry to enter the accreditation program.

Summary of Economic Impact: Fees imposed by the environmental laboratory accreditation program as amended are expected to have a significant impact on only one industry, commercial (for profit) testing labs, encompassing only a few businesses in the state. While the fees do tend to place a proportionally higher burden on smaller businesses within a given industry, the burden is not so substantial that it will reduce competition, reduce employment, reduce new employment opportunities, reduce innovation, or threaten the existence of any small businesses.

Accreditation has been shown to be an economic benefit to most commercial testing laboratories (i.e., laboratories that analyze environmental samples as a business)<sup>1</sup>. Furthermore, some testing labs, especially those that analyze drinking water AND other environmental samples, will benefit from a reduction in fees because of the enhanced efficiency of the combined program.

Associated (i.e., nonfee) costs are not readily quantifiable and not justifiably attributable to the laboratory accreditation program. Associated costs are realized by activities whose laboratories are not meeting scientific standards inherent in doing accurate analyses (standards imposed by others, such as EPA, and not the accreditation program).

### Section I - Impact On Businesses

Background: As required by RCW 19.85.040, this analysis compares the cost of complying with the rule for small businesses (those employing fewer than fifty people) to the cost of compliance for large businesses. To do this, it is necessary to distinguish between two types of laboratories that currently participate in the accreditation program. One type is a commercial laboratory (i.e., a laboratory that performs analytical services for hire). Presently, forty-nine commercial laboratories in the state are involved in the accreditation program. Washington businesses in this category are generally small, although two laboratories have more than fifty employees and are therefore classified as being large per chapter 19.85 RCW.

The other type of laboratory is operated by businesses which are required to report environmental data in compliance with a permit issued by the Department of Ecology. Some of these businesses hire commercial laboratories to perform all or some of their required analyses, while others conduct the analyses in their own laboratories. Presently, seventy businesses, all permitted wastewater dischargers operating their own laboratories, participate in the laboratory accreditation program. Wastewater dischargers not operating their own laboratories may be affected by the proposed fee increases because the commercial laboratories to which they send their samples for analysis may pass on to their clients their increased costs of being accredited.

A basic assumption of this analysis is that all affected businesses will pay a fee which in most cases will increase as a result of rule amendment. The fee will be direct if they operate their own laboratory, or indirect if the commercial laboratories they contract increase their charges for analyses. From the standpoint of economic impact on businesses that use accredited laboratory services, this assumption presents a worst case situation. A best case situation would involve no indirect fee increases because the supporting lab chose not to pass on the fee increase because of concern over losing clientele. Furthermore, essentially all labs serve more than one business. Thus, a lab with, for example, four customers, even if it passed through all of its fee increase, would only pass along 1/4 of the increase to each customer (on average). The actual impact will probably be closer to the best case situation than to the situation presented in this statement.

When chapter 173-50 WAC was promulgated, the following were used as the basis for determining economic impact. The 1982 Census of Manufacturers; Washington, the 1982 Census of Service Industries: Miscellaneous Subjects, and the 1982 Census of Wholesale Trade: Washington (all U.S. Department of Commerce, Bureau of the Census, 1985) were used to estimate average sales to payroll ratios. The 1987 Employment and Payrolls in Washington State by County and Industry (Washington State Department of Employment Security, 1988) was used to determine average number of employees and total 1987 wages paid per industry. The average wages paid within a business and the sales to payroll ratio were used to estimate the average sales. From these, estimates were made of the fee imposed by this rule as a percentage of sales (one of the methods of estimating eco-

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nomic impact allowed by RCW 19.85.040). For this SBEIS, comparable documents were used by the department to compile a list of industries showing "minor and negligible" thresholds for most Washington industries based on 1990 data.

Although the references cited above are not current, they are considered sufficient to support the conclusion that the laboratory accreditation program, including proposed fee increases, does not have an unwarranted economic impact on any industry or business in Washington. Table 1 below shows the anticipated impact on Washington industries. The "Fee Now" and "Projected Fee" columns in Table 1 reflect the current (2002) situation. Note that the determination of "significance" is based on the fee increase and not the absolute fee. Note also that for only one industry, testing labs at the bottom of the list, is the fee increase significant.

**Determining Program Cost:** The accreditation process involves:

- Submittal by each laboratory of a comprehensive application:
- Submittal of a quality assurance (QA) manual;
- Submittal of performance evaluation sample analysis results; and
- Successful completion of and an on-site audit.

The cost of reviewing the application, the laboratory's accreditation manual, and the results of the performance evaluation sample analysis are considered in determining the cost of administering the accreditation program to the department. The primary factor in determining cost to the department, however, is the system audit, or on-site inspection, which must be conducted at each laboratory prior to accreditation

and every three years thereafter. Generally, the effort required of the department in conducting the system audit is directly proportional to the scope of the laboratory's analytical operations. The accreditation fee to defray program costs is therefore directly determined by the number and complexity of analytical parameters for which the laboratory seeks accreditation. Within the commercial testing laboratory industry (NAICS 8734)<sup>2</sup>, small laboratories will analyze fewer parameters and consequently be charged proportionately smaller fees, and smaller fee increases as a result of the proposed rule revision.

Larger, multi-discipline laboratories are charged higher fees commensurate with the increased effort required in the accreditation process. For other businesses, the fee is also proportional to the scope (and size) of the laboratory, but not necessarily to the size of the business. Large businesses discharging few potentially harmful materials into the environment may be required to analyze only a few parameters and would therefore have a small laboratory and pay a small fee. However, within each industry, there is generally a direct correlation between business size and the fee imposed by this rule.

Potentially, each business discharging wastewater in accordance with permits issued pursuant to chapters 173-220, 173-216, and 173-226 WAC (NPDES, state, and general wastewater discharge permit regulations, respectively) could be affected by the fee increases projected in the revision of chapter 173-50 WAC. While there are hundreds of such businesses, this SBEIS shows that proposed fee increases will not have a significant impact on any of these small businesses.

Table 1 - Projected Economic Impact on Small Businesses

NAICS	INDUSTRY	No. of Small Bus.	avg \$k sales	% PROFIT	% м&n	THRESHOLD \$	FEE NOW \$	PROJ'D FEE \$	INCREASE	INCREASE SIG- NIFICANT?	NOTE
21222	Gold/Silver Mining	6	6491	1	0.001	64.91	124	127	3	NO ,	1
21232	Sand/Gravel Mining	18	439	1	0.001	4.39	124	127	3	NO	1
311612	Meat Processing	39	14871	4.08	0.0041	607.3	417	429	12	NO	
31151	Dairy Products	12	25393	2.2	0.0022	558.66	355	365	10	NO A	
31142	Fruit & Veg Canning	76	5390	2.6	0.0026	140.15	62	64	2	NO .	
31212	Breweries	12	13326	3.96	0.004	527.94	62	64	2	NO	
311711	Seafood Canning	35	3294	3.77	0.0038	124.22	62	64	2	NO	
321113	Sawmills	7	8179	2.52	0.0025	226.46	124	127	3	NO	
321212	Plywood Plants	11	6102	1.6	0.0016	97.83	62	64	2	NO	
321219	Recons. Wood Prod	2	6231	1.4	0.0014	369.05	62	64	2	NO	
322110	Pulp Mills	4	30040	6.29	0.0063	1889.06	372	382	10	NO	
32212	Paper Mills	8	8037	4.9	0.0049	393.85	372	382	10	NO	
325120	Indust Gas Mfg	2	4716	4.79	0.0048	225.7	62	64	2	NO	
324110	Petroleum Refineries	5	14271	3.5	0.0035	499.5	372	382	10	NO	
327320	Concrete/Cement	9	4361	1.93	0.0019	84.29	124	127	3	NO	
331312	Aluminum Producers	3	15697	3	0.003	470.93	372	382	10	NO	
33281	Metal Coaters	3	3578	2.8	0.0028	100.19	186	191	5	NO	
332813	Electroplating	5	2543	2.1	0.0021	53.41	186	191	5	NO	
33441	Electronics	8	9256	3.8	0.0038	351.57	124	127	3	NO	
33621	Motor Vehicle Mfg	2	2008	5	0.004	80.44	62	64	2	NO	
336413	Aircraft Parts Mfg	9	10112	7.03	0.007	710.67	496	510	14	NO	
33661	Ship/Boat Building	4	4496	1.6	0.0016	71.95	62	64	2	NO	

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Table 1 - Projected Economic Impact on Small Businesses

NAICS	INDUSTRY	No. of Small Bus.	avg \$k sales	% PROFIT	% м&n	THRESHOLD \$	fee NOW \$	PROJ'D FEE \$	INCREASE	INCREASE SIG- NIFICANT?	NOTE
488490	Road Transport Spt	3	869	1	0.001	8.69	62	64	2	NO	1
221111	Hydroelectric	29	33059	1	0.001	330.59	372	382	10	NO	
22132	Sanitary Services	12	22159	7.8	0.0079	1728.47	310	319	9	NO	
325110	Petrochemical Mfg	21	52818	2.66	0.0027	1403.10	256	263	7	NO	
42271	Petroleum Wholesale	21	143321	1.08	0.0011	1547.12	496	509	13	NO	
53112	Nonresidential Building Lessors	6	1681	1.3	0.0019	21.86	248	255	7 .	NO	
72121	RV Parks & Camp- grounds	11	1753	3.9	0.0039	68.37	248 ·	255	7	NO	
541380	Testing Labs	49	3732	6.06	0.0061	226.10	2240	3360	1120	YES	

Note: (1) Percent profits arbitrarily set at 1% (no specific data available)

The impact on affected industries in the state is discussed in the remainder of this section and summarized in Table 1 above. Although not shown in Table 1, another important aspect of this fee program is that in no case is the fee significant for a small business while being negligible for large businesses within the same industry (which could be very unfavorable to the small business). For commercial testing labs, the proposed fee increase is significant for the few large businesses in the industry. Furthermore, for some of the small testing labs, there may be a fee decrease.

Within most affected industries (e.g., pulp and paper), essentially all businesses in the industry are impacted by these rules because all are wastewater discharge permit holders. Many permitted dischargers (probably the majority of state-permitted dischargers, for example) are not affected by chapter 173-50 WAC because their permits do not require reporting of accreditable analytical data (e.g., some report only temperature and/or flow, neither of which require accreditation). The majority of industries in the state as defined in chapter 19.85 RCW will not be affected directly or indirectly by the accreditation program. A detailed discussion is provided only for the Commercial Testing Laboratories industry, the sole industry affected.

Impacts on industries in the state having small businesses likely to be affected by the accreditation program are summarized in Table 1, which shows the following:

- The number of units (small businesses) in that industry involved in lab accreditation;
- The average annual sales (in thousands of dollars) for the small units;
- The percent profit realized in 1990 by each industry (unless otherwise indicated by notes in which case a 1% profit was assigned, representing a worst case since profit margins for all other affected industries were greater than 1%);
- The percent limit below which a fee increase would be minor and negligible (% M&N) for the industry, set as 0.1% of the percent profit;
- The "%M&N" threshold in dollars (i.e., average sales times %M&N);
- Average fee now (before rule amendment);
- Average projected fee (following proposed 2002 rule amendments);

- The projected fee increase for the average business; and
- Whether the projected fee is significant (yes) or negligible (no).

Impacts on Commercial Testing Laboratories (NAICS 541380): Not all laboratories in NAICS 541380 are affected by the accreditation program. There are several which test materials other than those of interest to the Department of Ecology (or, in the case of drinking water labs, to the Department of Health), such as construction materials, food, and other products. However, many test environmental materials (e.g., water, hazardous waste) and submit data to the department. Others test drinking water and report data to the Department of Health. Criticality of accuracy of the these analyses dictates accreditation for those parameters; complexity of most analyses dictates an involved and therefore costly accreditation process. It is unlikely any actions other than those mentioned in Section III can be undertaken to significantly mitigate the economic impact on commercial testing labs.

Accreditation fees are directly proportional to the number and complexity of analytical parameters for which a laboratory is accredited. Consequently, the magnitude of the fee for any given business is directly related to the size of the laboratory. Small laboratories with limited capabilities generally analyze few parameters and are therefore charged a relatively small fee. Large, multi-functional laboratories are charged larger fees. The minimum possible fee for a given laboratory will be \$64, although no such uni-functional laboratory has been identified. A more probable minimum fee is \$237 which would be the fee for a laboratory conducting limited microbiology tests (e.g., fecal coliforms only). At least one such laboratory exists in the state. The maximum possible fee following proposed rule amendments will be approximately \$10,000. Here again, it is unlikely such an omnifunctional laboratory exists, although some come close. The most probable maximum fee is approximately \$7,000, and that would not be for a lab defined as a small business in chapter 19.85 RCW.

The fee projected for an average small commercial testing laboratory is \$3,360, which is well above the M&N threshold of \$226 for the industry, making the fee significant. While the fee is also significant for large businesses in this

industry, the smaller the lab, the more significant the fee. This inequity in favor of the large laboratories is not easily avoided because part of the fee is based on ecology's need to evaluate administrative functions such as sample and data management that are not related to size of the lab or its annual sales. Fees for both large and small laboratories are in accordance with the effort required of ecology in the accreditation process. These fees cannot be reduced for either small or large labs if the program is expected to be self supporting. On the other hand, the bulk of the fee INCREASES proposed in this rule revision are primarily based on accreditation for tests that are done only by the larger testing labs. Thus the majority of additional fees to be imposed by ecology will be on the larger businesses in this mostly small-business industry. Nevertheless, the average fee increase of \$1,120 is significant causing the department to seek mitigation wherever possible. Mitigation of the impact of the fee increase is addressed in Section III.

The current fee structure has not been a problem with commercial testing labs since program inception in 1989, and given the economic value of the accreditation itself, the fee is not considered by the majority of participating labs to be excessive. For a commercial laboratory, the ability to produce quality data is its main marketable commodity, which means that evidence attesting to that quality (i.e., an accreditation), has great value. Furthermore, most of the laboratories, and particularly the smaller ones, benefit in terms of increased efficiency as a result of going through the accreditation process. Increased efficiency should lead to increased productivity which will help offset increased costs of accreditation. Experience gained in implementing the accreditation program to date has shown this to be the case for most laboratories and the trend is expected to continue. Furthermore, there are currently fifty-four Washington labs that are paying fees to both the health and ecology lab accreditation programs. Consolidation of the accreditation function under ecology will actually reduce the cost of doing business for those labs. For some labs, there will actually be a fee decrease.

Impact of Fees on Profits: Laboratory accreditation fees are not taxes on profits but rather a cost of doing business which may be incorporated into the price of a laboratory's (or its parent organization's) output. Because the fees are generally such a small percentage of sales, large businesses and most small businesses will probably not find it necessary to raise prices because of current or projected accreditation fees. The exception might be very small commercial laboratories (i.e., those with only one or two employees), of which there are very few in the state.

For most commercial laboratories, the cost of accreditation fees can be passed on to customers in the form of increased prices for analytical services. Since all laboratories in the state performing environmental analyses will be affected by the fee increases, in a manner designed to be as equitable as possible, the economic impact will affect most laboratories. As previously mentioned, the exception could be the very small lab that performs a specialized type of analysis. Because the fee for such a lab could be a significant percentage of sales, the lab might be forced to increase prices to

recover the costs of fee increases. Larger, multidiscipline laboratories performing the same type of analysis would not be required to increase prices for the same test to the same extent as the smaller, unidiscipline lab. This may appear to give the larger lab an unfair advantage. The advantage is possibly already enjoyed because the larger lab, with more capital, is more likely to be operating efficiently and charging less than the small lab. However, it is important to note that the bulk of the fee INCREASE will be borne by larger labs because it is they that will enjoy the benefit of accreditation for matrices in addition to water and the other new services offered as a result of this rule revision.

A significant portion of the analytical work performed by commercial testing laboratories involved in this fee program is contract work for ecology. The department has published a policy statement and promulgated rules which require use of accredited laboratories. Other state and private entities, including out-of-state entities, require (or at least prefer) use of ecology-accredited laboratories to do their environmental analyses. These requirements should result in increased sales for accredited laboratories. Because neither neighboring state has an environmental lab accreditation program (Oregon is developing one), Washington commercial testing laboratories are perhaps better able to compete against neighboring state laboratories for environmental analyses. Also, it is known that in some cases, Washington testing labs have not been able to successfully bid on projects from outof-state entities which require labs to be accredited for soil, tissue, and other matrices for which ecology accreditation has not heretofore been granted. For all these reasons, accreditation is an economic benefit for the accredited commercial lab. The benefit should exceed any adverse impact of increased charges for analysis to recover fees. Realizing this, many laboratories opt to initially absorb accreditation costs within their profit margin, anticipating that the profit margin will eventually increase as a result of accreditation.

Section I Summary: Fees imposed by the environmental laboratory accreditation program have a significant effect on only a few industries representing only a few businesses in the state. The only industry for with [which] the projected fee increase will be significant is the commercial testing lab industry. The projected fee increases for such labs do not place a proportionally higher burden on smaller business within a given industry, and in fact, just the opposite is true. But even for the larger labs which will be carrying most of the burden of fee increases, that burden is not so significant that it will reduce competition, reduce employment, reduce new employment opportunities, reduce innovation, or threaten the existence of any businesses in this industry. Accreditation, and an expanded scope of existing accreditations, is expected to be an economic benefit to most commercial testing laboratories. Consolidation of the drinking water and environmental lab functions will reduce fees for some of the fifty-four labs that are currently paying fees to both programs.

# **Section II - Impact of Associated Costs**

The principal cost of complying with chapter 173-50 WAC is the annual fee charged by the Department of Ecology. In addition to paying the fee, participating laboratories

will be required to obtain and analyze performance evaluation samples and report the results of analyses to the department. Additionally, each participating laboratory is required to submit a quality assurance manual for review by the department. Such manuals already exist in environmental laboratories, but some may need updating to reflect rule revisions. For those that must prepare or revise a manual to comply with the proposed rule revision, assistance is available from the department to minimize cost of preparation.

Increases in associated costs (indirect costs other than fees) for laboratories currently practicing what would normally be considered acceptable laboratory procedures will be minimal. These costs will consist primarily of costs associated with time lost in undergoing the on-site audit which will be more extensive for labs requesting the new services (drinking water or NELAP accreditation, or accreditation for matrices other than water). Well-prepared laboratories would already be analyzing performance evaluation samples, would have a formal quality assurance (QA) program as documented in a QA manual, would need no new equipment or additional personnel or training, would be performing QA tests such as duplicate and spiked samples, and would be keeping adequate QA records.

Other laboratories will lack some or all of these elements of good laboratory practices, necessitating expenditures to bring the laboratory up to acceptable standards for the newly offered accreditation parameters. The extent of the expenditures will vary depending upon the requirements. The associated costs cannot be readily quantified or even estimated without knowing the status of an individual laboratory. The most common deficiency is likely to be lack of a sufficient QA program as documented in a QA manual. To minimize expense to deficient laboratories, assistance is available from ecology in preparation of such manuals.

Section II Summary: Associated costs are not readily quantifiable and not justifiably attributable to the laboratory accreditation program. Associated costs will be incurred by entities whose laboratories are not currently meeting acceptable standards.

### **Section III - Mitigation**

Several actions have been taken since laboratory accreditation was initiated in 1989 to make the program more efficient, thus reducing program costs and keeping fees low. Accreditation in recognition of a third party's certification has been emphasized, which accomplishes program objectives with less effort from ecology, thus reducing program costs and keeping fees to a minimum. Extensive use of word processing and database programs has decreased time required to evaluate, track, and report lab performance. Added emphasis has been placed on combining on-site visits to several laboratories in a geographical area, thus making more efficient use of time and travel expenses. Staff has been cross trained so one staff member can audit in a number of different technical areas, reducing the requirement for multiple auditors for any given lab. Other program efficiency moves could be implemented if necessary without rule amendment (e.g., reducing the number of performance audits from two to one annually), but to do so might degrade the quality of the accreditation program and will be avoided.

To mitigate the impact of indirect costs on laboratories participating in the accreditation program, several actions have already been taken by ecology. For example, a model quality assurance manual was written and has been made available gratis to any lab entering the program. Likewise, an MS Excel program which automates the process of monitoring results of quality control tests in the lab was written by ecology and made available to laboratories free of charge. These and other forms of assistance from the laboratory accreditation unit of Department of Ecology will be used to mitigate the impact of indirect costs on labs seeking accreditation for the new services.

There is one new fee proposed in this rule revision that has not yet been addressed in this SBEIS because it is not imposed on Washington businesses. The revised chapter 173-50 WAC will establish a fee to be collected from out-of-state laboratories to recognize their national environmental laboratory accreditation program (NELAP) accreditation granted by other states. The fee for this service will be from several hundred to a few thousand dollars annually. This will significantly mitigate the magnitude of fee increases imposed on Washington labs.

During the rule amendment process, other mitigating actions will be sought and aggressively pursued.

A copy of the statement may be obtained by writing to Perry Blake, Washington Department of Ecology, P.O. Box 488, Manchester, WA 98353-0488, pbra461@ecy.wa.gov, phone (360) 895-6149, fax (360) 895-6180.

RCW 34.05.328 does not apply to this rule adoption. The current rule amendment is not subject to the requirements of RCW 34.05.328 for significant legislative rules because the current rule amendment adopts existing Washington state requirements for lab accreditation without material change. The responsibility for drinking water lab accreditation is being transferred from the Department of Health to the Department of Ecology, and the Department of Ecology is further implementing accreditation for matrices that already require accreditation in Washington state.

Hearing Location: Eastern Washington University, Conference Room, 705 West 1st Avenue, Spokane, WA, on July 2, 2001 [2002], at 10:00 a.m.; and at the Headquarters, Department of Ecology Auditorium, 300 Desmond Drive, Lacey, WA, on July 3, 2001 [2002], at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Perry Brake by June 24, 2002, (360) 895-4169, TDD (360) 407-6006, or (360) 407-7006 (voice).

Submit Written Comments to: Perry Brake, Ecology Lab Accreditation Unit, P.O. Box 488, Manchester, WA 98353-0488, fax (360) 895-6180, e-mail pbra461@ecy.wa. gov, by August 6, 2001.

<sup>&</sup>lt;sup>1</sup> For more detail, see the discussion below of the impact on environmental testing laboratories.

<sup>&</sup>lt;sup>2</sup> In the late 1990s, the North American Industry Classification System (NAICS) replaced the Standard Industrial Classification system (SIC) for categorizing economic activities.

Date of Intended Adoption: October 1, 2002.

May 21, 2002 Linda Hoffman Deputy Director

AMENDATORY SECTION (Amending Order 89-1 and 89-1A, filed 4/20/89 and 3/13/90, effective 4/13/90)

WAC 173-50-010 Purpose. Department of ecology, department of health, and other data users require persons and organizations submitting analytical data under the purview of their programs to use environmental laboratories which are accredited. The purpose of this chapter is to establish a state program for accreditation of environmental laboratories which conduct tests ((for or prepare data for submittal)) and submit data to the department of ecology, the department of health, and other data users. The accreditation program ((implemented under this chapter)) is designed to satisfy the intent of RCW 43.21A.230.

AMENDATORY SECTION (Amending Order 89-1 and 89-1A, filed 4/20/89 and 3/13/90, effective 4/13/90)

WAC 173-50-020 Scope. ((The environmental laboratory accreditation program applies to laboratories, within or outside the state, which conduct tests for or prepare analytical data for submittal to the department. Federal laboratories may participate in the accreditation program on a voluntary basis.)) (1) The environmental laboratory accreditation program applies to laboratories which conduct tests for or prepare analytical data for submittal to state agencies and other data users. This includes laboratories that analyze drinking water. This rule also allows the department of ecology to participate in the National Environmental Laboratory Accreditation Program (NELAP) as an accrediting authority once the department is certified by the National Environmental Laboratory Accreditation Conference (NELAC).

- (2) Accreditation in itself does not authorize use of a specific method for any specific program or project. If such authorization is not granted in documentation governing a program or project within which samples are being analyzed, authorization should be obtained from the laboratory's data user.
- (3) Accreditation does not guarantee validity of analytical data submitted by the accredited laboratory but rather assures that the laboratory has demonstrated its capability to reliably generate and report the analytical data (WAC 173-50-040, definition of "accreditation").

AMENDATORY SECTION (Amending Order 89-1 and 89-1A, filed 4/20/89 and 3/13/90, effective 4/13/90)

WAC 173-50-030 Objectives. ((The primary objective of the accreditation program is to assure accredited laboratories have a demonstrated capability to accurately analyze environmental samples. A secondary objective is to assist environmental laboratories in improving their quality assurance/quality control procedures. Accreditation does not guarantee validity of analytical data submitted by the labora-

- tory subsequent to accreditation.)) Objectives of the accreditation program are to:
- Assure accredited laboratories have a demonstrated capability to accurately and defensibly analyze environmental samples;
- Assist environmental laboratories in improving their quality assurance/quality control procedures; and
- Foster cooperation between the state departments of ecology and health, local agencies, other users of environmental data, and operators of environmental laboratories.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-040 Definitions. Definitions ((set forth)) in this section ((shall)) apply throughout this chapter, unless context clearly indicates otherwise.

- (((1))) "Accreditation" ((means)) the formal recognition by the department that an environmental laboratory is capable of producing accurate and defensible analytical data((5)). This recognition is signified by ((the)) issuance of a written certificate accompanied by a scope of accreditation indicating ((those)) the parameters ((and methods)) for which the laboratory ((has been)) is accredited.
- The term "accredit" as used in this chapter is intended to have the same meaning as the term "certify" as used in RCW 43.21A.230.
- Any laboratory accredited under this chapter shall be deemed to have been certified under RCW 43.21A.230.
- The department does not, by ((eertifying or)) accrediting any laboratory pursuant to ((this chapter)) these rules, vouch for or warrant the accuracy of any particular work done or report issued by ((the)) that laboratory.
- (((2))) "Accuracy" the degree to which an analytical result corresponds to the true or accepted value for the sample being tested. Accuracy is affected by bias and precision.
- "Analytical data" ((means)) the recorded qualitative and/or quantitative results of a chemical, physical, biological, microbiological, radiochemical, or other scientific determination.
- (((3))) "Department" ((means)) the state of Washington department of ecology when the term is not followed by another state designation.
- (((4))) "Drinking water certification manual" the Environmental Protection Agency Manual for the Certification of Laboratories Analyzing Drinking Water, 4th Edition, March 1997.
- "Ecology accrediting authority" the supervisor of the lab accreditation unit, environmental assessment program, department of ecology.
  - "Environmental laboratory" ((means any)) a facility:
- Under the ownership and technical management of a single entity in a single geographical locale((7));
- Where scientific examinations are performed on samples taken from the environment, ((the)) including drinking water samples; and
- Where data ((from which)) is submitted to the department of ecology, department of health, or other data user

under ((the)) provisions of a ((department)) regulation, permit, or contractual agreement.

(((5))) "Lab accreditation unit" - the lab accreditation unit of the environmental assessment program of the department of ecology.

"Mandatory analytical method" ((means))\_- a recognized written procedure for acquiring analytical data which is required by law or a regulatory agency of the federal ((ef)), state, or local government.

(((6))) "Matrix" means the substance from which a material to be analyzed is extracted, such as ground or surface water, wastewater, drinking water, air, solid waste, soil, tissue, nuclear waste, and hazardous waste. For the purposes of establishing a fee structure (WAC 173-50-190(4)), matrices are grouped as follows:

- Nonpotable water;
- Drinking water;
- · Solid and chemical materials; and
- Air and emissions.

NELAP accreditations may include other matrices as designated in the NELAC standards.

(((7))) "NELAC" - the National Environmental Laboratory Accreditation Conference, a voluntary association of state and federal agencies.

"NELAC standards" - the standards for laboratory accreditation published by NELAC, September 5, 2001.

"NELAP" - the National Environmental Laboratory Accreditation Program governed by NELAC.

"Out-of-state laboratory" - a laboratory that is not located in the state of Washington.

"Parameter" ((means)) - a single determination or sampling procedure, or group of related determinations or sampling procedures using a specific written method ((ehosen by an applying laboratory)).

(((8) "Performance audit" means)) "Proficiency testing (PT)" - evaluation of the results ((of analyses of unknown)) from the analysis of PT samples ((whose)). The true values of PT samples are unknown to the laboratory conducting the analyses ((and which)). PT samples are provided by a source external to the environmental laboratory. ((Such samples may be referred to as performance evaluation samples.

(9))) "Quality control" ((means those)) - activities designed to assure analytical data produced by an environmental laboratory meet data quality objectives for accuracy and defensibility. Those activities may include routine application of statistically based procedures to evaluate and control the accuracy of analytical results.

(((10))) "Quality assurance (QA)" ((means those)) activities ((whose purpose is)) intended to assure that a quality control program is effective. A ((quality assurance)) QA program is a totally integrated program for assuring reliability of measurement data.

(((11))) "Quality assurance manual" ((means)) \_ a written record ((of the)) intended to assure the reliability of measurement data. A QA manual documents policies, organization, objectives, and specific ((quality control)) QC and ((quality assurance)) QA activities ((established for use in an environmental laboratory to assure accuracy of analytical

results)). Volume and scope of ((quality assurance)) QA manuals vary with complexity of the laboratory mission.

(((12))) "Recognized analytical method" ((means))\_a documented analytical procedure ((for analysis of an environmental sample which was)) developed through collaborative studies by organizations or groups recognized by the ((department)) users of the laboratory's analytical data.

(((13) "System audit" means an on-site inspection of laboratory capabilities by an agency external to the laboratory.

(14) "Registration" means participation of a laboratory in a program to prepare the laboratory for accreditation, signified by issuance of a written certificate accompanied by a scope of registration indicating those parameters for which the laboratory has achieved registration status.

(15) "Registered" means the status of continued participation in the preparatory program. Only laboratories owned and operated by municipalities, industries, and other activities which are dischargers as defined in chapter 173-220 or 173-216 WAC shall be eligible for participation in the preparatory program. Such laboratories are also eligible for accreditation. The department does not, by registering any laboratory pursuant to these rules, vouch for or warrant the accuracy of any particular work done or report issued by the laboratory.

Note: Above referenced chapters are available through the Department of Ecology, P.O. Box 47600, Olympia, WA 98504 7600.))

"Regulatory program" - a program administered by a federal, state, or other regulatory agency. Examples include, but are not limited to, the following federal Environmental Protection Agency programs:

- The Clean Water Act (CWA);
- The Safe Drinking Water Act (SDWA);
- The Resource Conservation and Recovery Act (RCRA);
- The Comprehensive Environmental Response Compensation and Liability Act (CERCLA);
  - The Toxic Substances Control Act (TSCA);
  - The Clean Air Act (CAA); and
- The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

"On-site assessment" - an on-site inspection of laboratory capabilities.

"Primary NELAP accreditation" - granting of NELAP accreditation by the ecology accrediting authority after having determined through direct evaluation that the laboratory is in conformance with the NELAP standards.

"Secondary NELAP accreditation" - recognition by the ecology accrediting authority of a NELAP accreditation that was granted by another NELAP accrediting authority.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-050 Responsibilities of the department. (((1) The department shall require persons and organizations submitting analytical data to the department under the purview of department programs to use environmental laboratories which are accredited or registered under the provisions of this chapter.

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- (2) The department shall not require use of accredited or registered laboratories for determination of analytical parameters for which no suitable accreditation process can be reasonably devised as determined by the quality assurance section.
- (3) The department shall develop a procedural manual describing specifics of the accreditation process. As a minimum, the procedural manual shall describe in detail the procedures to be followed for: Submitting an application; preparing a quality assurance manual; system (on site) audits; performance audits; accreditation of out-of-state laboratories; determination and payment of fees; issuance, denial, suspension, and revocation of accreditation or registration; and methods for notifying laboratories and authorized department officials of accreditation actions. The procedural manual shall be made available to all interested persons.
- (4) Managers of environmental laboratories desiring accreditation or registration shall submit an application along with appropriate fees to the department fiscal officer, submit results of performance evaluations, a quality assurance manual and other required documentation to the quality assurance section, and assist/accommodate department personnel during system audits as required.)) (1) The department maintains a procedural manual describing specifics of the accreditation process. As a minimum, the procedural manual describes the procedures for:
  - Submitting an application and fee;
  - Preparing a quality assurance manual;
  - Performing proficiency testing;
  - Conducting on-site assessments;
  - Accrediting out-of-state laboratories;
- Issuing, denying, suspending, and revoking accreditation; and
- Notifying laboratories and authorized government officials of accreditation actions.

The department will make the procedural manual available to all interested persons.

- (2) Department personnel assigned to assess the capability of drinking water laboratories participating in the environmental laboratory accreditation program must meet the experience, education, and training requirements established in the Environmental Protection Agency Manual for the Certification of Laboratories Analyzing Drinking Water.
- (3) When granting NELAP accreditations, the ecology accrediting authority is responsible for those actions designated in applicable chapters of the NELAC standards. If a NELAC standard is more stringent than the corresponding standard in this chapter, the NELAC standard applies for laboratories seeking NELAP accreditation.

AMENDATORY SECTION (Amending Order 90-21, filed 10/19/90, effective 11/19/90)

WAC 173-50-060 ((Requirements for accreditation and registration.)) Responsibilities of environmental laboratories. (((1) Managers of environmental laboratories desiring accreditation or registration shall submit to the department fiscal officer an application and pay required fees as predetermined by coordination with the quality assurance

- section. Concurrently, the laboratory manager shall submit a copy of their laboratory quality assurance manual to the quality assurance section and arrange with the quality assurance section for completion of a performance audit and system audit.
- (2) Through the application, laboratory managers shall request accreditation or registration in applicable parameters and provide evidence that sufficient personnel, equipment, and facilities are available to successfully perform analytical methods as specified in the application. The quality assurance manual submitted concurrently with the application shall be in detail and scope commensurate with the size and mission of the laboratory.
- (3) Eligible laboratories shall achieve registration status by submitting a completed application, paying required fees, and submitting a quality assurance manual to the quality assurance section.)) When applying for initial accreditation (see WAC 173-50-130 for maintaining an existing accreditation), managers of environmental laboratories must:
- Submit an application (WAC 173-50-063) and required fees (WAC 173-50-190) to the department fiscal officer;
- Submit a copy of the laboratory's quality assurance manual (WAC 173-50-067);
- Submit an initial set of acceptable PT sample analysis results (WAC 173-50-070); and
  - Undergo an on-site assessment (WAC 173-50-080).

# **NEW SECTION**

**WAC 173-50-063 Application.** (1) Through the application, laboratory managers:

- Request accreditation for specific parameters;
- Calculate fees due the department; and
- Provide evidence that sufficient personnel and equipment are available to successfully perform analytical methods as specified in the application.
- (2) Through review of the application submitted by the applicant laboratory, the lab accreditation unit determines if:
  - Requested parameters are eligible for accreditation;
- The fee calculated by the applicant laboratory is correct; and
- Personnel and equipment are adequate to support successful performance of requested parameters.
- (3) Following the review, the lab accreditation unit advises the applicant laboratory of any required changes.

# **NEW SECTION**

WAC 173-50-067 Quality assurance manual. (1) The lab accreditation unit reviews and approves the laboratory's QA manual prior to the initial on-site assessment. The QA manual submitted concurrently with the application must be in detail and scope commensurate with the size and mission of the laboratory. Guidelines for contents of the QA manual are in the procedural manual.

(2) The QA manual must address QA and QC requirements of applicable regulatory programs. For drinking water laboratories, such requirements are found in the drinking water certification manual.

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(3) For laboratories applying for primary NELAP accreditation, QA requirements, including the conduct of specific QC tests, are those designated in the NELAC standards. If a NELAC standard is more stringent than the corresponding standard in this chapter, the NELAC standard applies for laboratories seeking NELAP accreditation.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

- WAC 173-50-070 Performance audit. (1) The ((quality assurance section shall)) lab accreditation unit advises applying laboratories of specific requirements for ((performance audits which shall be)) proficiency tests. Such tests are completed for applicable parameters no more frequently than twice annually (((see exception in subsection (4) of this section))). Current ((performance audits)) proficiency tests conducted under the provisions of other recognized programs may be used to satisfy the accreditation program ((performance audit)) proficiency testing requirement. The lab accreditation unit determines the sufficiency of such audits ((shall be determined by the quality assurance section)).
- (((2) Submission of raw data along with the report of analysis of the performance evaluation sample may be required at the discretion of the quality assurance section.
- (3) Performance audits for certain accreditation parameters may be waived at the discretion of the quality assurance section if performance evaluation samples are not available or for other valid reasons.
- (4) Accredited laboratories and laboratories seeking accreditation which fail to accurately analyze a performance evaluation sample may be allowed a second performance audit. If necessitated by a second failure, a third performance audit may be allowed (as an exception to subsection (1) of this section) only after the laboratory has investigated cause for failure in the preceding audits and completed corrective actions.
- (5) Registered laboratories shall submit results of performance evaluation sample analyses to the quality assurance section. Registration status shall not be denied or revoked solely for failure to accurately analyze performance evaluation samples. Registered laboratories shall investigate causes for errors in performance evaluation sample analysis results which have been identified as unacceptable or otherwise in error. The results of this investigation shall be reported to the quality assurance section within forty five days of receipt of the performance evaluation report. The report to the quality assurance section shall identify probable causes for error and corrective actions taken to preclude recurrence.
- (6) Applying laboratories shall be responsible for obtaining performance evaluation samples. No fee shall be charged to the department for analysis of performance evaluation samples.)) (2) Drinking water laboratories must analyze a minimum of one PT sample per applicable microbiology parameter per year and two PT samples for applicable chemistry parameters per year.
- (3) The lab accreditation unit may require the laboratory to submit raw data along with the report of analysis of PT samples.

- (4) The lab accreditation unit may waive proficiency tests for certain parameters if PT samples are not readily available or for other valid reasons.
- (5) Applying laboratories are responsible for obtaining PT samples from vendors certified by the National Institute of Standards and Technology (NIST) or otherwise approved by the lab accreditation unit. No fee shall be charged to the department for the purchase or analysis of PT samples.
- (6) For laboratories applying for NELAP accreditation, proficiency testing requirements are those designated in the NELAC standards. If the NELAC standard is more stringent than the corresponding standard in this chapter, the NELAC standard applies for laboratories seeking NELAP accreditation.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-080 ((System audit.)) On-site assessment. The laboratory ((shall)) must undergo a system audit by the department to assess critical elements and areas of recommended practices. The laboratory must assist/accommodate department of ecology personnel during on-site assessments as required.

- (1) Critical elements for accreditation. ((Those)) Elements of an environmental laboratory's operations which are critical to the consistent generation of ((reliable,)) accurate and defensible data are critical elements for accreditation. ((Those)) Critical elements ((shall be the)) are subject of intense scrutiny throughout the accreditation process ((and deficiencies in critical elements may be the basis for denial or revocation of accreditation status)). The ecology accrediting authority may deny, revoke, or suspend accreditation for deficiencies in critical elements. Functional areas ((within which there are)) including critical elements are:
- (a) Analytical methods. The ((system audit shall)) onsite assessment seeks to determine if documentation of mandatory or recognized analytical methods:
  - Are present at the laboratory( $(\frac{1}{2})$ );
  - Readily available to analysts((5)); and
- Being ((routinely followed)) implemented. If the laboratory is using a locally-developed method ((is being followed)), the ((audit)) on-site assessment may include an evaluation of the adequacy of that method.
- (b) **Equipment and supplies.** The ((system audit shall)) on-site assessment seeks to determine if sufficient equipment and supplies as required by analytical methods are:
  - Available((-));
  - Being adequately maintained( $(\frac{1}{2})$ ); and ( $(\frac{1}{2})$ )
- In a condition to allow successful performance of applicable analytical procedures.

To gain and maintain accreditation, laboratories must demonstrate that equipment and supply requirements of applicable regulatory programs are being met.

(((c) Quality assurance. The laboratory quality assurance manual shall be reviewed for adequacy prior to the system audit. The system audit shall include a review of quality assurance plans and quality assurance/quality control records for programs/projects within which the laboratory is generat-

ing analytical data for submission to the department.)) (c) **QA** and **QC** records. The on-site assessment includes a review of **QA** and **QC** records for programs/projects within which the laboratory is generating analytical data for submission to the data user.

- (d) Sample management. The ((system audit shall)) onsite assessment includes a review of applicable procedures for receipt, preservation, transportation, and storage of samples. The laboratory ((shall be held)) is responsible only for those elements of sample management over which it has direct control. To gain and maintain accreditation, laboratories must demonstrate that sample management requirements of applicable regulatory programs are being met.
- (e) Data management. The ((system audit shall include a review of applicable procedures for checking documentation of)) on-site assessment includes a review of activities necessary to assure accurate management of laboratory data including:
  - Raw data( $(\frac{1}{2})$ );
  - Calculations((7));
- Transcription ((and)), computer data entry, reports of analytical results((, and other activities necessary to assure accurate management of laboratory data)).

To gain and maintain accreditation, laboratories must demonstrate that data management requirements of applicable regulatory programs are being met.

- (2) Recommended practices. Recommended practices are those elements of laboratory operations which might affect efficiency, safety, and other administrative functions, but do not normally affect quality of analytical data((, shall be brought to the attention of laboratory management under the heading of "recommended practices" and individually, shall)). Normally these practices would not be the basis for denial or revocation of accreditation status. Functional areas within which recommended practices may be noted are:
- (a) **Personnel.** The ((system audit shall)) department seeks to determine if managerial, supervisory, and ((analytical)) technical personnel have adequate training and experience to allow satisfactory completion of analytical procedures and compilation of reliable, accurate data. Minimum recommended education and experience criteria for laboratory personnel ((shall be)) are specified in the program procedural manual.
- (b) Facilities. The ((system audit shall)) department seeks to determine if laboratory facilities allow efficient generation of reliable, accurate data in a safe environment.
- (((e) Safety. When the system audit notes laboratory safety problems, those judged serious shall be referred to appropriate state or federal agencies.
- (3) Registered laboratories shall be advised in a written system audit report prepared by the department of deficiencies in meeting critical element and recommended practice standards. The laboratory must respond in writing to the department within forty five days of receipt of the system audit report concerning corrective actions taken as a result of the system audit report.)) (c) Safety. The department may refer serious safety deficiencies to appropriate state or federal agencies.

Proposed

- (3) NELAC requirements. For laboratories applying for NELAP accreditation, on-site assessment requirements are those designated in the NELAC standards. If the NELAC standard is more stringent than the corresponding standard in this chapter, the NELAC standard applies.
- (4) **Drinking water laboratory requirements.** For laboratories applying for accreditation of drinking water parameters, on-site assessment requirements are those designated in the drinking water certification manual. If such a standard is more stringent than the corresponding standard in this chapter, the drinking water certification manual applies.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-090 Evaluation and issuance of certificate. (((1) Accreditation: Following receipt of an application and completion of a performance audit and system audit, the quality assurance section shall submit a report to the affected laboratory concerning the results of the overall accreditation process. The report shall list findings, assess the importance of each-finding, and make recommendations concerning actions necessary to ensure resolution of problems. After completing the accreditation review, the quality assurance section shall decide, based on information in the application and results of the system audit, performance audit, and review of the quality assurance manual, whether accreditation should be granted. If this decision is affirmative, a certificate shall be issued authorizing the affected laboratory to submit analytical data to the department as specified on an accompanying scope of accreditation. The certificate shall remain the property of the department and shall be surrendered to the department upon revocation of accreditation status. If accreditation is not justified, the department shall issue a report specifying areas of deficiency and steps necessary to upgrade the laboratory to accredited status. In such cases, the laboratory shall provide documentation that the specified deficiencies have been corrected. Based on such documentation the department shall decide whether to grant, renew, deny, or revoke accreditation.

(2) Registration. Registered laboratories shall be issued a certificate and accompanying scope of registration. The certificate shall remain the property of the department of ecology and shall be surrendered to the department upon revocation of the registration status.)) (1) After preliminary requirements (WAC 173-50-060 through 173-50-080) have been met, the lab accreditation unit submits a report to the affected laboratory concerning the results of the overall accreditation process. The report:

- Lists findings;
- Assesses the importance of each finding; and
- Makes recommendations concerning actions necessary to assure resolution of problems.
- (2) After completing the accreditation review, the ecology accrediting authority decides whether accreditation should be granted.
- (a) If accreditation is warranted, the department issues a certificate and accompanying scope of accreditation. The certificate remains the property of the department and must

be surrendered to the department upon revocation of accreditation status.

(b) If accreditation is not warranted, the department issues a report specifying areas of deficiency and steps necessary to upgrade the laboratory to accredited status. In such cases, the laboratory must provide documentation that the specified deficiencies have been corrected. Based on such documentation the ecology accrediting authority decides whether to grant or deny accreditation.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-100 Interim accreditation. ((If for valid reasons based on a deficiency in the department and not the laboratory, the quality assurance section cannot conduct a complete assessment of laboratory capabilities in a timely manner, an interim accreditation may be granted. The accreditation shall be based on submission of an application and fees by the laboratory, successful completion of a performance audit where appropriate, and department approval of the laboratory's quality assurance manual.)) (1) If for valid reasons resulting from a deficiency in the department and not the laboratory, interim accreditation may be granted. To be considered for interim accreditation, the laboratory must:

- Submit an application and applicable fees;
- Successfully complete applicable proficiency tests; and
- Submit a QA manual that meets the requirements of WAC 173-050-067.

The lab accreditation unit may also require the laboratory to submit an analytical data package as evidence of analytical capability.

(2) For NELAP accreditation, the only valid reason for granting interim accreditation is the delay of an on-site assessment for reasons beyond the control of the laboratory.

AMENDATORY SECTION (Amending Order 90-21, filed 10/19/90, effective 11/19/90)

WAC 173-50-110 Provisional accreditation. ((Laboratories which have deficiencies requiring corrective action but can produce valid analytical data as determined by the quality assurance section may be given a provisional accreditation. When the laboratory has corrected such deficiencies, it may provide evidence of correction to the quality assurance section, or request reaudit, as appropriate. Upon determining deficiencies have been corrected, the quality assurance section shall take action to award full accreditation as in WAC 173-50-090. Provisional accreditation shall not be renewed for a subsequent accreditation period-unless laboratory management can demonstrate that all reasonable measures to correct deficiencies noted during the initial capability assess ment have been exhausted.)) (1) The ecology accrediting authority may grant provisional accreditation to laboratories which can consistently produce valid analytical data but have deficiencies requiring corrective action. When the laboratory has corrected such deficiencies, it must provide evidence of correction to the lab accreditation unit, or request a follow-up on-site assessment, as appropriate. If the lab accreditation unit determines the deficiencies have been corrected, the

ecology accrediting authority awards full accreditation as in WAC 173-50-090.

(2) The ecology accrediting authority may renew a provisional accreditation for a subsequent accreditation period if laboratory management has demonstrated that all reasonable measures to correct deficiencies have been exhausted.

- (3) For drinking water laboratories, specific conditions warranting provisional accreditation and specific actions required of the laboratory when provisional accreditation is granted are found in the drinking water certification manual.
- (4) Provisional accreditation does not apply to NELAP accreditations.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-120 Accreditation ((and registration)) categories. ((Environmental laboratories shall be accredited or registered within the broad eategories Chemistry I (general), Chemistry II (trace metals), Organics I (gas chromatography (GC), high pressure liquid chromatography (HPLC) methods), Organics II (gas chromatography/mass spectrometry (GC/MS) methods), Radioactivity, Microbiology, and Bioassay/Toxicity. Within those broad categories, laboratories shall specifically be accredited or registered to perform within the well-defined parameters identified in WAC-173-50-190 or as requested by the applying laboratory, using specific, recognized analytical methods chosen by the applying laboratory. Additional-parameters may be designated in the program procedural manual without amendment of this chapter if required to allow more efficient execution of the accreditation program.)) (1) Environmental laboratories are accredited within one or more of the matrix groups defined in WAC 173-50-040. Additionally, accreditation is granted within the following broad categories:

- Chemistry I (General);
- Chemistry II (Trace Metals):
- Organics I (Gas Chromatography (GC) and High Pressure Liquid Chromatography (HPLC) Methods);
- Organics II (Gas Chromatography/Mass Spectrometry (GC/MS) Methods);
  - · Radioactivity;
  - Microbiology;
  - Bioassay/Toxicity;
  - Immunoassay; and
  - Physical.

Within these categories, laboratories are specifically accredited for well-defined parameters, such as, but not limited to, those suggested in the procedural manual, using specific, recognized analytical methods or sampling techniques chosen by the applying laboratory.

- (2) The scope of accreditation accompanying the accreditation certificate indicates the parameters for which the laboratory is accredited, and any applicable qualifications, such as interim or provisional accreditation.
- (3) For laboratories granted NELAP accreditation, the scope of accreditation also indicates the matrix groups within which each parameter applies. Those matrix groups may include, but are not limited to:
  - Nonpotable water;

- Drinking water;
- Solid and chemical materials;
- · Biological tissue; and
- Air and emissions.

For laboratories granted NELAP accreditation, the scope of accreditation may also indicate the technology, such as gas chromatography/electron capture detection (GC/ECD) or inductively coupled plasma/mass spectrometry (ICP/MS), associated with each parameter.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-130 Requirements for maintaining accreditation ((and registration)) status. (1) Accreditation ((shall be)) is granted for a one-year period and ((shall)) expires one year after the effective date of accreditation. Except for NELAP accreditation which is limited to one year, exceptions to the one year accreditation may be made for documented cause. In such cases, accreditation may be granted for a period up to two years. ((Renewal shall require submission of an application and appropriate fees, an update of the laboratory's quality assurance manual, and successful completion of performance audit requirements. System audits shall be required for renewal of accreditation at periods not to exceed three years from the previous system audit. For documented cause, system audits can be extended up to four years from the previous audit.

- (2) Registration shall be granted for a one year period and shall expire one year after the effective date of registration. Renewal shall require submission of an application and appropriate fees, an update of the laboratory's quality assurance manual, and completion of a new performance audit. System audits shall be required for renewal of registration at periods not to exceed three years from the previous system audit.)) (2) Renewal requires the laboratory to submit:
  - An application and appropriate fees:
- An update of the laboratory's quality assurance manual if applicable; and
- Successful completion of proficiency testing requirements.

On-site assessments are required at periods not to exceed three years from the previous on-site assessment. For documented cause, on-site assessments may be extended up to four years from the previous assessment, except for laboratories accredited to analyze drinking water and NELAP accredited laboratories.

AMENDATORY SECTION (Amending Order 90-21, filed 10/19/90, effective 11/19/90)

WAC 173-50-140 Denying accreditation ((and registration status)). (((1) A laboratory may be denied accreditation for failing to comply with standards for critical elements of the system audit, for misrepresenting its capabilities or failing to disclose pertinent information in the application, for falsifying analytical data, or for failing to render appropriate fees. Additionally, a laboratory may be denied accreditation for a specific parameter for unsatisfactory analysis of that parameter in the performance audit. Laboratories denied

accreditation may appeal under the provisions of WAC 173-50-200 or, following correction of deficiencies, may reapply for accreditation to include payment of appropriate fees as determined in WAC 173-50-190.

- (2) A laboratory may be denied registration status only for failure to render appropriate fees, for failing to disclose pertinent information in the application, or for misrepresenting its capabilities.)) (1) The ecology accrediting authority may deny accreditation if the applicant laboratory:
- Fails to comply with standards for critical elements of the on-site assessment;
  - Misrepresents itself to the department;
- Fails to disclose pertinent information in the application;
  - Falsifies reports of analysis including PT results;
- Engages in unethical or fraudulent practices concerning generation of analytical data;
- Is deficient in its ability to provide accurate and defensible analytical data; or
  - Fails to render applicable fees.
- (2) A laboratory may be denied accreditation for a specific parameter for unsatisfactory analysis of that parameter in proficiency tests.
- (3) Laboratories denied accreditation may appeal under the provisions of WAC 173-50-200. If an appeal does not result in action favorable to the laboratory, and following correction of deficiencies, laboratories denied accreditation may reapply for accreditation to include payment of appropriate fees as determined in WAC 173-50-190.
- (4) Reasons for denial of NELAP accreditation are as specified in the NELAC standards.

AMENDATORY SECTION (Amending Order 90-21, filed 10/19/90, effective 11/19/90)

WAC 173-50-150 Revoking or suspending accreditation ((and registration status)). (((1) Accreditation status may be suspended or revoked if the laboratory violates a state rule relative to the analytical procedures for which it is accredited, misrepresents itself to the department, fails to submit an application and associated fees for renewal, falsifies reports of analysis, or engages in unethical or fraudulent practices concerning the generation of analytical data. Additionally, an accredited laboratory may be reaudited for cause and, if found to be deficient in its ability to provide accurate analytical data, may have its accreditation suspended or revoked.

(2) Registration status may be revoked for failure to submit a renewal application, failure to pay appropriate fees, failure to submit required performance evaluation sample analysis results, failure to report on corrective actions taken if performance evaluation results are unacceptable or otherwise in error, failure to submit to a system audit, failure to report on corrective actions taken on deficiencies identified in a system audit, repeated failure to correct the deficiencies identified in the performance or system audits, or for misrepresenting the capabilities of the registered laboratory.)) (1) Revocation of accreditation is the withdrawal of a previously granted accreditation. Revocation may involve the entire laboratory or one or more individual parameters. Suspension of accred-

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itation is for a specified period not to exceed six months during which the affected laboratory corrects deficiencies that led to the suspension. Suspension may involve the entire laboratory, or one or more individual parameters.

- (2) The ecology accrediting authority may suspend or revoke accreditation if the accredited laboratory:
- Fails to comply with standards for critical elements of an on-site assessment;
- Violates a state rule relative to the analytical procedures for which it is accredited;
  - Misrepresents itself to the department;
  - Falsifies reports of analysis including PT results;
- Engages in unethical or fraudulent practices concerning generation of analytical data;
- Is deficient in its ability to provide accurate and defensible analytical data; or
- Refuses to permit for enforcement purposes (WAC 173-50-210).
- (3) A laboratory having had its accreditation suspended or revoked may appeal under the provisions of WAC 173-50-200. If an appeal does not result in action favorable to the laboratory, and following correction of deficiencies, a laboratory having had its accreditation revoked may reapply for accreditation to include payment of appropriate fees as determined in WAC 173-50-190.
- (4) Reasons for revocation or suspension of NELAP accreditation are as specified in the NELAC standards.

AMENDATORY SECTION (Amending Order 89-1 and 89-1A, filed 4/20/89 and 3/13/90, effective 4/13/90)

WAC 173-50-160 Reciprocity. ((The department may recognize accreditation (or certification, registration, licensure, approval) of an out-of-state laboratory by another state with which the department has established a reciprocity agreement. In such cases, the out-of-state laboratory shall submit an application and associated fee to offset administrative costs of processing its application (see WAC 173-50-190(5)); and a-copy of their accreditation documentation including scope of accreditation. After review of the application-and accreditation to assure compliance with minimum accreditation requirements as stated in this chapter, the laboratory may be recognized as authorized to submit-analytical data to the department.)) (1) The department may recognize accreditation (or certification, registration, licensure, approval) of an out-of-state laboratory by the laboratory's home state with which the department has established a reciprocity agreement.

- (2) The out-of-state laboratory must submit:
- An application and associated fee (WAC 173-50-190(8));
  - A copy of the other state's certificate;
  - A copy of the other state's scope of accreditation;
- A copy of the other state's most recent on-site assessment report;
- A copy of the laboratory's corrective action report relative to the on-site assessment; and
- A complete set of the most recent PT results for applicable parameters.

- (3) In consideration of a request to recognize a reciprocity agreement as the basis for accreditation by the ecology accrediting authority, the lab accreditation unit reviews the application and supporting documentation to assure compliance with minimum accreditation requirements as stated in this chapter. If the review is favorable, a certificate and scope of accreditation are granted as in WAC 173-50-090.
- (4) In granting secondary NELAP accreditation, the ecology accrediting authority must recognize the accreditation of other NELAP accrediting authorities.

AMENDATORY SECTION (Amending Order 89-1 and 89-1A, filed 4/20/89 and 3/13/90, effective 4/13/90)

WAC 173-50-170 Third-party accreditation. ((The department-may recognize accreditation (or certification, registration, licensure, approval) of a laboratory, including instate laboratories, by a third-party when the accreditation is determined to be equivalent to that described in this chapter. Laboratories-applying for recognition of third-party accreditation shall submit an application and associated fee to offset administrative costs (see WAC 173-50-190(5)), and provide documented information demonstrating requirements for accreditation have been fulfilled as a result of accreditation carried out by a third party. After review of the application and accreditation to ensure compliance with minimum accreditation requirements as stated in this chapter, the laboratory may be recognized as authorized to submit analytical data to the department.)) (1) The department may recognize accreditation (or certification, registration, licensure, approval) of a laboratory by a third party when the accreditation process is determined to be equivalent to that described in this chapter.

- (2) <u>Laboratories applying for recognition of third party's</u> accreditation submit:
- An application and associated fee (WAC 173-50-190(7));
  - A copy of the third party's certificate;
  - A copy of the third party's scope of accreditation;
- A copy of the third party's most recent on-site assessment report;
- A copy of the laboratory's corrective action report relative to the on-site assessment; and
- A complete set of the most recent PT results for the applicable parameters.
- (3) In consideration of a request to recognize a third party's accreditation as the basis for accreditation by the ecology accrediting authority, the lab accreditation unit reviews the application and supporting documentation to assure compliance with minimum accreditation requirements as stated in this chapter. If the review is favorable, a certificate and scope of accreditation are granted as in WAC 173-50-090.
- (4) Washington laboratories accredited or applying for accreditation in recognition of a third party's accreditation must notify the lab accreditation unit of on-site assessments scheduled by the third party and allow a department observer to attend such on-site assessments.
- (5) Primary NELAP accreditation cannot be granted in recognition of the accreditation by a third party.

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AMENDATORY SECTION (Amending Order 89-1 and 89-1A, filed 4/20/89 and 3/13/90, effective 4/13/90)

WAC 173-50-180 Exemptions. (1) The application form ((shall)) provides for wastewater dischargers whose laboratories meet the exemption qualifications of RCW 43.21A.230 to request exemption from the accreditation program. Those laboratories shall be required to submit evidence that they are participating in a federal Environmental Protection Agency Administered Quality Assurance Program including as a minimum the following elements: Current QA program/project plans; performance evaluation audits; system audits; corrective action for audit deficiencies; quality control guidelines and records; and training in quality assurance for laboratory management personnel. The department shall grant exemption from accreditation requirements of this chapter upon receipt of confirmation from Region ((X)) 10 of the federal Environmental Protection Agency of such participation by a laboratory.

(2) Exemption ((shall be)) is granted only for those analytical parameters included in the federal Environmental Protection Agency Quality Assurance Program. The exemption status shall be reviewed annually based upon submittal by the laboratory of a new application and updated evidence of continued participation in a sufficient quality assurance program.

Note:

The federal Environmental Protection Agency does not presently administer a complete quality assurance program for wastewater dischargers in the state of Washington, such as would provide an exemption under subsection (1) of this section. Thus, this exemption is not presently available. The Environmental Protection Agency considers annual analysis of performance evaluation samples to constitute only one element of participation in a quality assurance program. The complete Environmental Protection Agency Quality Assurance Program is described in their Order 5360.1, "Policy and Program Requirements to Implement the Mandatory Quality Assurance Program," which is the basis for exemption requirements stated in subsection (1) of this section.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-190 Fee structure. (((1) Fees in this chapter are established to cover costs of administering the accreditation program. The fee per parameter and maximum fee per category are identified in Table 1. Laboratory directors may request addition of parameters within given categories.

TABLE 1- FEE SCHEDULE

		<del>M.</del>	AX FEE
		PE	R FEE/
		PAR	AMETER
CATEGORY	PARAMETER	CAT	FEGORY
Chemistry I	Calcium	<del>\$55</del>	<del>\$1000</del>
(General)	Chloride		
	Fluoride		
	Magnesium		
	₽Ħ		
	Potassium		
	<del>Sodium</del>		
	Specific Conductance		

#### TABLE 1 - FEE SCHEDULE

MAX FEE
PER FEE
PARAMETER
CATEGORY

CATEGORY	PARAMETER	CATE	GORY
	Sulfate		
	Total Alkalinity		
	Total Dissolved Solids (TDS)		
	Total-Hardness		
	Ammonia (NH3-N)		
	Kjeldahl-Nitrogen		
	Nitrate (NO3 N)		
	Nitrate Nitrite (NO3 NO2)		
	Nitrite (NO2 N)		
	Orthophosphate		
	Phosphorous (total)		
	Biochemical Oxygen Demand (BOD)/Carbonaceous- BOD (CBOD)		
	Chemical Oxygen Demand- (COD)		
	Total Organic Carbon- (TOC)		
	Acidity	٠	
	Anionic Surfactants (LAS)		
	Bromide		
	Color		
	Cyanide (total)		
	Dissolved Oxygen (DO)		
	Nonfilterable Residue/ Total Suspended Solids (TSS)		
	Total Solids		
	Volatile-Solids		
	Oil/grease		
	Phenolics (total)		
	Salinity		
	Silica		
	Sulfide		
	Sulfite		
	Total Organic Halides		
	Total Petroleum Hydrocarbons		
	Total-Residual Chlorine		
	<del>Turbidity</del>		
Chemistry-II	Aluminum \$	<del>55</del>	<del>\$850</del>
(Trace Metals)	Antimony		
	Arsenie		
	Barium		
	Beryllium		
	Cadmium		
	Chromium		
	Chromium (hexavalent)		
	Cobalt		
	Copper		
	<del>Iron</del>		
	Lead		
	Managanaca		

Manganese

Ŧ	ABLE 1—FEE SCHEDULE	MAX	FEB-		
		PER FEE/ PARAMETER			
CATEGORY	PARAMETER		GORY		
	Mercury				
	Molybdenum				
	Nickel				
	Selenium				
	Silver				
	Strontium				
	<del>Thallium</del>				
	<del>Tin</del>				
	Titanium				
	Vanadium 7:				
	<del>Zine</del>				
Organies I	Acrolein/Acrylonitrile	<del>\$100</del>	<del>\$850</del>		
(GC, HPLC	Phenols .				
<del>-methods)</del>	<del>Purgeable (volatile)</del> <del>Halocarbons</del>				
	Purgeable (volatile) Aromatics				
	Benzidines				
	Phthalate Esters				
•	Nitrosamines				
	Organochlorine Pesticides				
	Polychlorinated Biphenyls (F	<del>CBs)</del>			
	Nitroaromatics/Isophorone				
	Polycyclic Aromatic  Hydrocarbons				
	Haloethers				
	Chlorinated Hydrocarbons				
	Organophosphorus Pesticides	<del>)</del>			
	Chlorinated Herbicides				
	Gasoline				
	Diesel Fuel				
Organies II		<del>\$300</del>	<del>\$900</del> '		
<del>(GC/MS</del> <del>Methods)</del>	Purgeable (volatile) Organ- ies				
	Extractable-Base/Neutral				
	and Acid (Semivolatile) Organics	<del>)</del>			
	Dioxin (2,3,7,8-Tetra				
	ehlorodibenzo-p-dioxin	<del>)</del>			
Radioactivity	Gross Alpha	<del>\$125</del>	<del>\$1200</del>		
	Gross Beta				
	Cesium 134				
	Cesium 137				
	Cobalt 60				
	Radium 226				
	Radium-228				
	Tritium Total Uranium				
	Iodine 131				
	Strontium 89				
	Savinanii 07				

	MA	X-FEE
	PEI	<del>FEE/</del>
	PARA	METER-
PARAMETER	CAT	EGORY
Strontium 90		
Coliform (fecal)	<del>\$205</del>	<del>\$600</del>
Coliform (total)		
Enterococci/Fecal Streptococci		
<del>E. coli</del>		
Fich	\$200	<del>\$1250</del>
	<del>\$200</del>	Ψ1230
Bivalve Larvae		
Chromosomal abnormality		
<del>Microtox</del>		
<del>Daphnid</del>		
<del>Echinoderm</del>		
Mysid		
Algae		
Antimony	<del>\$100</del>	<del>\$500</del>
<del>Arsenic</del>		
Cadmium		
Copper		
	Strontium 90  Coliform (fecal) Coliform (total) Enterococci/Fecal Streptococci E. coli  Fish Rat Amphipod Bivalve Larvae Chromosomal abnormality Microtox Daphnid Echinoderm Mysid Algae  Antimony Arsenie Cadmium	PET PARA PARAMETER CAT Strontium 90  Coliform (fecal) \$205 Coliform (total) Enterococci/Fecal Streptococci E. coli  Fish \$200 Rat Amphipod Bivalve Larvae Chromosomal abnormality Microtox Daphnid Echinoderm Mysid Algae  Antimony Arsenic Cadmium

Lead
Mercury
Niekel
Silver
Zine

TARLE 1 FEE SCHEDULE

(2) Out-of-state laboratories shall coordinate directly with the quality assurance section to determine the anticipated cost of completing the accreditation process. Reimbursement of the cost of travel and per diem shall be added to the normal fee indicated in WAC 173-50-190(1).

Polycyclic Aromatic
Hydrocarbons
Extractable Base/Neutral
and Acid (semivolatile)

**Organies** 

- (3) On-site inspections shall not be conducted nor-shall interim or provisional or other accreditations be granted until appropriate fees have been received by the department.
- (4) The fee to defray costs to the department recognition of third-party accreditation (WAC 173-50-170) shall be three hundred dollars. The fee for recognition of a laboratory under a reciprocity agreement (WAC 173-50-160) shall be three hundred dollars, or as specified in the reciprocity agreement, but not less than three hundred dollars.
- (5) Apart from the fee process, applicant laboratories shall be required to acquire and analyze performance evaluation (PE) samples for parameters specified by the quality assurance section. The source of PE samples, if other than the federal Environmental Protection Agency, shall be approved

by the quality assurance section. To the extent feasible as determined by the quality assurance section, performance evaluation samples already being analyzed by the applicant laboratories, shall be used to fulfill performance audit requirements of this chapter.

- (6) In addition to fees as determined by the number of parameters and methods in WAC 173-50-190(1), laboratories seeking registration status are required to pay an annual fee of six hundred dollars.
- (7) If a laboratory withdraws from the accreditation process after the application has been processed, but before accreditation or registration is granted, the fee will be nonrefundable up to an amount of two hundred dollars as reimbursement for costs of processing the application.
- (8) Dollar amounts listed in subsections (1), (4), (6), and (7) of this section may be adjusted every two years based on inflation as indicated by the implicit price deflator for state and local government services as published by the economic and revenue forecast council. Dollar amounts listed in subsections (1), (4), (6), and (7) of this section may be decreased at any time the department determines they are higher than needed to meet program requirements. The department shall notify affected parties of any fee adjustment at least thirty days prior to making any fee adjustment.)) (1) Fees in this chapter are in U.S. dollars and are established to cover costs of administering the accreditation program. The fee per parameter and maximum fee per category for each matrix are identified in Table 1.
- (2) Examples of parameters for each category are published in the procedural manual. Accreditation may be requested for parameters in addition to those listed in the procedural manual.
- (3) A fee is assessed only once for a given parameter even though that specific parameter may be accredited under more than one matrix.

TABLE 1 - FEE SCHEDULE							
<u>MATRIX</u>	<u>CATEGORY</u>	<u>FEE/PARAM</u> <u>ETER</u>	MAX FEE PER CATE-				
		EIEK	GORY				
Nonpotable Water	Chemistry I	<u>\$65</u>	\$1150				
<u>water</u>	(General)						
	<del></del>	965	0075				
	Chemistry II	<u>\$65</u>	<u>\$975</u>				
	(Trace Metals)						
	Organics I	<u>\$115</u>	<u>\$975</u>				
	(GC/HPLC)						
	Organics II	<u>\$345</u>	<u>\$1035</u>				
	(GC/MS)						
	Radioactivity	<u>\$145</u>	<u>\$1380</u>				
	Microbiology	<u>\$175</u>	<u>\$520</u>				
	Bioassay/Toxicity	<u>\$230</u>	<u>\$1435</u>				
	<u>Immunoassay</u>	<u>\$65</u>	<u>\$390</u>				
	<u>Physical</u>	<u>\$65</u>	<u>\$260</u>				
Drinking	Chemistry I	<u>\$65</u>	\$390				
<u>Water</u>							
	(General)						
	Chemistry II	<u>\$65</u>	<u>\$760</u>				
	Organics I	<u>\$175</u>	<u>\$690</u>				

	TABLE 1 - FE	E SCHEDULE	
<b>MATRIX</b>	<b>CATEGORY</b>	FEE/PARAM	MAX FEE
		<b>ETER</b>	PER CATE-
			GORY
	(GC/HPLC)		
	Organics II	<u>\$175</u>	<u>\$175</u>
	(GC/MS)		
	Microbiology	<u>\$175</u>	<u>\$520</u>
Solid and	Chemistry 1	<u>\$65</u>	<u>\$1150</u>
<u>Chemical</u>			
<u>Materials</u>			
	(General)		
	Chemistry II	<u>\$65</u>	<u>\$975</u>
	(Trace Metals)		
	Organics I	<u>\$115</u>	<u>\$975</u>
	(GC/HPLC)		
	Organics II	<u>\$345</u>	<u>\$1035</u>
	(GC/MS)		
	<u>Radioactivity</u>	<u>\$145</u>	<u>\$1380</u>
	<u>Microbiology</u>	<u>\$175</u>	<u>\$520</u>
	<u>Immunoassay</u>	<u>\$65</u>	<u>\$390</u>
	Physical Physical	<u>\$65</u>	<u>\$260</u>
Air and	Chemistry I	<u>\$65</u>	<u>\$1150</u>
<b>Emissions</b>			
	(General)		
	Chemistry II	<u>\$65</u>	<u>\$975</u>
	(Trace Metals)		
	Organics I	<u>\$115</u>	<u>\$975</u>
	(GC/HPLC)		
	Organics 11	<u>\$345</u>	<u>\$1035</u>
	(GC/MS)		

- (4) In addition to paying the fee indicated in WAC 173-50-190(4), out-of-state laboratories must pay for the actual cost of travel associated with on-site assessments. The department invoices the laboratory for such costs after completion of the on-site assessment.
  - (5) The laboratory must pay applicable fees before:
- Its quality assurance manual is reviewed by the department;
  - The on-site assessment is conducted if applicable; and
  - Interim, provisional, or full accreditation is granted.
- (6) The fee for recognition of a third party accreditation (WAC 173-50-170), other than NELAP accreditation (WAC 173-50-190(9)), is three hundred forty-five dollars.
- (7) The fee for recognition of a laboratory under a reciprocity agreement (WAC 173-50-160) is three hundred forty-five dollars, or as specified in the reciprocity agreement, but not less than three hundred forty-five dollars.
- (8) The fee for recognition of accreditation by a NELAP accrediting authority for laboratories in Washington is three hundred forty-five dollars. For out-of-state laboratories, the fee for recognition of accreditation by a NELAP accrediting authority is the fee indicated in WAC 173-50-190(4).
- (9) For drinking water laboratories, the base fee to defray the extra cost incurred by the department because of the need to coordinate directly with two regulatory agencies is one hundred fifteen dollars.

(10) If a laboratory withdraws from the accreditation process after the application has been processed, but before accreditation is granted, the fee is nonrefundable up to an amount of two hundred thirty dollars as reimbursement for costs of processing the application. If a laboratory withdraws from the accreditation process after the on-site assessment has been completed, the department may retain the entire fee including reimbursement of travel costs if applicable.

(11) Dollar amounts listed in subsections (6), (7), (8), (9), and (10) of this section may be adjusted every year based on inflation as indicated by the *Implicit Price Deflator for State and Local Government Services* as published by the economic and revenue forecast council. Dollar amounts listed in subsections (6), (7), (8), (9), and (10) of this section may be decreased at any time the department determines they are higher than needed to meet accreditation program requirements. The department notifies affected parties of any fee adjustment at least thirty days prior to the effective date of the adjusted fee.

AMENDATORY SECTION (Amending Order 92-53, filed 9/22/93, effective 10/23/93)

WAC 173-50-200 Appeals. An environmental laboratory manager may appeal final accreditation ((and registration)) actions within thirty days of notification of final action in accordance with chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order 90-21, filed 10/19/90, effective 11/19/90)

WAC 173-50-210 Enforcement. (1) For the purpose of conducting on-site assessments or otherwise enforcing this chapter, the department may enter any premises in which analytical data pertaining to accreditation ((and registration)) under the provisions of this chapter are generated or stored((for the purpose of conducting system audits or otherwise enforcing this chapter)).

(2) Refusal to permit entry for such purposes shall result in denial, revocation, or suspension of accreditation or registration status.

AMENDATORY SECTION (Amending Order 90-21, filed 10/19/90, effective 11/19/90)

WAC 173-50-220 Assistance to laboratories. ((During those calendar years in which a system audit is not required, registered laboratories may request a visit by quality assurance section personnel for the purpose of providing assistance in correcting deficiencies and improving practices for those tests covered by the scope of registration. These visits will be for the purpose of technical assistance and will not result in preparation of a corrective action report by the registered laboratory.)) Laboratories scheduled to undergo an onsite assessment may request a training session be conducted by department staff in conjunction with that assessment. Accredited laboratories may also request on-site assistance at times other than the on-site assessment. Whether requested as part of the on-site assessment or otherwise, the department

will provide such assistance to the extent allowed by staff resources available at the time.

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# WSR 02-11-021 EXPEDITED RULES DEPARTMENT OF HEALTH

[Filed May 7, 2002, 10:30 a.m.]

Title of Rule: WAC 246-252-030 Criteria related to disposition of uranium mill tailings or wastes.

Purpose: The purpose of this rule is to provide a clear and consistent regulatory basis for determining the extent to which lands and structures can be considered decommissioned.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.080.

Summary: This rule addresses federal rule changes which have been deemed a matter of compatibility for the agreement states by the United States Nuclear Regulatory Commission (NRC).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mikel J. Elsen, Tumwater, (360) 236-3246.

Name of Proponent: Department of Health, governmental.

Rule is necessary because of federal law, 10 C.F.R. Part 40 Appendix A.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 246-252-030 Criteria related to disposition of uranium mill tailings or wastes, provides a clear and consistent regulatory basis for determining the extent to which lands and structures can be considered decommissioned. The rule only applies to those uranium recovery facilities that do not have an approved decommissioning plan for buildings and soil as of the effective date, June 11, 1999. This rule change is not expected to affect any parties regulated by these rules because all uranium facilities had approved decommissioning plans in place prior to June 11, 1999.

Proposal Changes the Following Existing Rules: This rule change establishes a decommissioning standard for byproduct material containing concentrations of radionuclides (other than radium in soil) and surface activity on remaining structures.

# **NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Mikel J. Elsen, Department of Health, P.O. Box 47827, Olympia, WA 98504-7827, AND RECEIVED BY July 23, 2002.

May 6, 2002 Mary C. Selecky Secretary AMENDATORY SECTION (Amending WSR 00-08-013, filed 3/24/00, effective 4/24/00)

WAC 246-252-030 Criteria related to disposition of uranium mill tailings or wastes. As used in this section, the term "as low as reasonably achievable" has the same meaning as in WAC 246-220-007. The term by-product material means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

As required by WAC 246-235-110(6), each applicant for a license to possess and use source material in conjunction with uranium or thorium milling, or by-product material at sites formerly associated with such milling, is required to include in a license application proposed specifications relating to the milling operation and the disposition of tailings or waste resulting from such milling activities. This section establishes criteria relating to the siting, operation, decontamination, decommissioning, and reclamation of mills and tailings or waste systems and sites at which such mills and systems are located and site and by-product material ownership. Applications must clearly demonstrate how these criteria have been addressed. The specifications shall be developed considering the expected full capacity of tailings or waste systems and the lifetime of mill operations. Where later expansions of systems or operations may be likely, the amenability of the disposal system to accommodate increased capacities without degradation in long-term stability and other performance factors shall be evaluated.

Licensees or applicants may propose alternatives to the specific requirements in these criteria. The alternative proposals may take into account local or regional conditions, including geology, topography, hydrology, and meteorology. The department may find that the proposed alternatives meet the department's requirements if the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with the sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the requirements of the standards promulgated by the United States Environmental Protection Agency in 40 CFR 192, Subparts D and E.

- (1) Criterion 1 In selecting among alternative tailings disposal sites or judging the adequacy of existing tailings sites, the following site features which would contribute to meeting the broad objective of permanent isolation of the tailings and associated contaminants from man and the environment for one thousand years to the extent reasonably achievable, and in any case, for at least two hundred years without ongoing active maintenance shall be considered:
  - (a) Remoteness from populated areas;
- (b) Hydrogeologic and other environmental conditions conducive to continued immobilization and isolation of contaminants from groundwater sources; and
- (c) Potential for minimizing erosion, disturbance, and dispersion by natural forces over the long term.

The site selection process must be an optimization to the maximum extent reasonably achievable in terms of these features.

In the selection of disposal sites, primary emphasis shall be given to isolation of tailings or wastes, a matter having long-term impacts, as opposed to consideration only of short-term convenience or benefits, such as minimization of transportation or land acquisition costs. While isolation of tailings will be a function of both site characteristics and engineering design, overriding consideration shall be given to siting features given the long-term nature of the tailings hazards.

Tailings shall be disposed in a manner such that no active maintenance is required to preserve the condition of the site.

- (2) Criterion 2 To avoid proliferation of small waste disposal sites, by-product material from in-situ extraction operations, such as residues from solution evaporation or contaminated control processes, and wastes from small remote above ground extraction operations shall be disposed at existing large mill tailings disposal sites; unless, considering the nature of the wastes, such as their volume and specific activity and the costs and environmental impacts of transporting the wastes to a large disposal site, such offsite disposal is demonstrated to be impracticable or the advantage of onsite burial clearly outweighs the benefits of reducing the perpetual surveillance obligations.
- (3) Criterion 3 The "prime option" for disposal of tailings is placement below grade, either in mines or specially excavated pits (that is, where the need for any specially constructed retention structure is eliminated).

The evaluation of alternative sites and disposal methods performed by mill operators in support of their proposed tailings disposal program (provided in applicants' environmental reports) shall reflect serious consideration of this disposal mode. In some instances, below grade disposal may not be the most environmentally sound approach, such as might be the case if a groundwater formation is relatively close to the surface or not very well isolated by overlying soils and rock. Also, geologic and topographic conditions might make full, below grade burial impracticable; for example, near-surface bedrock could create prominent excavation costs while more suitable alternate sites may be available. Where full below grade burial is not practicable, the size of the retention structures, and the size and steepness of slopes of associated exposed embankments, shall be minimized by excavation to the maximum extent reasonably achievable or appropriate, given the geologic and hydrogeologic conditions at a site. In these cases, it must be demonstrated that an above-grade disposal program will provide reasonably equivalent isolation of the tailings from natural erosional forces.

- (4) Criterion 4 The following site and design criteria shall be adhered to whether tailings or wastes are disposed of above or below grade:
- (a) Upstream rainfall catchment areas must be minimized to decrease erosion potential and the size of the probable maximum flood which could erode or wash out sections of the tailings disposal area.
- (b) Topographic features shall provide good wind protection.
- (c) Embankment and cover slopes shall be relatively flat after final stabilization to minimize erosion potential and to provide conservative factors of safety assuring long-term stability. The broad objective should be to contour final slopes

to grades which are as close as possible to those which would be provided if tailings were disposed of below grade; this could, for example, lead to slopes of about ten horizontal to one vertical (10h:1v) or less steep. In general, slopes should not be steeper than about 5h:1v. Where steeper slopes are proposed, reasons why a slope less steep than 5h:1v would be impracticable should be provided, and compensating factors and conditions which make such slopes acceptable should be identified.

(d) A fully self-sustaining vegetative cover shall be established or rock cover employed to reduce wind and water erosion to negligible levels.

Where a full vegetative cover is not likely to be self-sustaining due to climatic conditions, such as in semi-arid and arid regions, rock cover shall be employed on slopes of the impoundment system. The NRC will consider relaxing this requirement for extremely gentle slopes such as those which may exist on the top of the pile.

The following factors shall be considered in establishing the final rock cover design to avoid displacement of rock particles by human and animal traffic or by natural processes, and to preclude undercutting and piping:

- (i) Shape, size, composition, gradation of rock particles (excepting bedding material, average particle size shall be at least cobble size or greater);
- (ii) Rock cover thickness and zoning of particles by size; and
  - (iii) Steepness of underlying slopes.
- (e) Individual rock fragments shall be dense, sound, and resistant to abrasion, and free from defects that would tend to unduly increase their destruction by water and frost actions. Weak, friable, or laminated aggregate shall not be used. Shale, rock laminated with shale, and cherts shall not be used.

Rock covering of slopes may not be required where top covers are on the order of ten meters or greater; impoundment slopes are on the order of 10h:1v or less; bulk cover materials have inherently favorable erosion resistance characteristics; and there is negligible drainage catchment area upstream of the pile, and there is good wind protection as described in (a) and (b) of this subsection.

- (f) Impoundment surfaces shall be contoured to avoid areas of concentrated surface runoff or abrupt or sharp changes in slope gradient. In addition to rock cover on slopes, areas toward which surface runoff might be directed shall be well protected with substantial rock cover (riprap). In addition to providing for stability of the impoundment systems itself, the overall stability, erosion potential, and geomorphology of surrounding terrain shall be evaluated to assure that there are no processes, such as gully erosion, which would lead to impoundment instability.
- (g) The impoundment shall not be located near a capable fault that could cause a maximum credible earthquake larger than that which the impoundment could reasonably be expected to withstand. As used in this criterion, the term "capable fault" has the same meaning as defined in Section III (g) of Appendix A of 10 CFR Part 100. The term "maximum credible earthquake" means that earthquake which would cause the maximum vibratory ground motion based upon an evaluation of earthquake potential considering the

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regional and local geology and seismology and specific characteristics of local subsurface material.

- (h) The impoundment, where feasible, should be designed to incorporate features which will promote deposition of suspended particles. For example, design features which promote deposition of sediment suspended in any runoff which flows into the impoundment area might be utilized; the object of such a design feature would be to enhance the thickness of cover over time.
- (5) Criterion 5 Criteria 5(a) through 5(g) and new Criterion 13 incorporate the basic groundwater protection standards imposed by the United States Environmental Protection Agency in 40 CFR Part 192, Subparts D and E (48 FR 45926; October 7, 1983) which apply during operations and prior to the end of closure. Groundwater monitoring to comply with these standards is required by Criterion 7.
- (a) The primary groundwater protection standard is a design standard for surface impoundments used to manage uranium and thorium by-product material. Surface impoundments (except for an existing portion) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil, groundwater, or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil, groundwater, or surface water) during the active life of the facility, provided that impoundment closure includes removal or decontamination of all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate. For impoundments that will be closed with the liner material left in place, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility.
  - (b) The liner required by (a) of this subsection must be:
- (i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;
- (ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and
- (iii) Installed to cover all surrounding earth likely to be in contact with the wastes or leachate.
- (c) The applicant or licensee will be exempted from the requirements of (a) of this subsection if the department finds, based on a demonstration by the applicant or licensee, that alternate design and operating practices, including the closure plan, together with site characteristics will prevent the migration of any hazardous constituents into groundwater or surface water at any future time. In deciding whether to grant an exemption, the department will consider:
  - (i) The nature and quantity of the wastes;
  - (ii) The proposed alternate design and operation;

- (iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soilspresent between the impoundment and groundwater or surface water; and
- (iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.
- (d) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave actions; rainfall; run-on; from malfunctions of level controllers, alarms, and other equipment; and human error.
- (e) When dikes are used to form the surface impoundment, the dikes must be designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the impoundment.
- (f) Uranium and thorium by-product materials must be managed to conform to the following secondary groundwater protection standard: Hazardous constituents entering the groundwater from a licensed site must not exceed the specified concentration limits in the uppermost aquifer beyond the point of compliance during the compliance period. Hazardous constituents are those constituents identified by the department pursuant to (g) of this subsection. Specified concentration limits are those limits established by the department as indicated in (j) of this subsection. The department will also establish the point of compliance and compliance period on a site specific basis through license conditions and orders. The objective in selecting the point of compliance is to provide the earliest practicable warning that the impoundment is releasing hazardous constituents to the groundwater. The point of compliance must be selected to provide prompt indication of groundwater contamination on the hydraulically downgradient edge of the disposal area. The department must identify hazardous constituents, establish concentration limits, set the compliance period, and adjust the point of compliance, if needed, when the detection monitoring established under criterion 7 indicates leakage of hazardous constituents from the disposal area.
- (g) A constituent becomes a hazardous constituent subject to (j) of this subsection when the constituent:
- (i) Is reasonably expected to be in or derived from the by-product material in the disposal area;
- (ii) Has been detected in the groundwater in the uppermost aquifer; and
  - (iii) Is listed in WAC 246-252-050 Appendix A.
- (h) The department may exclude a detected constituent from the set of hazardous constituents on a site specific basis if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to exclude constituents, the department will consider the following:
- (i) Potential adverse effect on groundwater quality, considering —
- (A) The physical and chemical characteristics of the waste in the licensed site, including its potential for migration;

- (B) The hydrogeological characteristics of the facility and surrounding land;
- (C) The quantity of groundwater and the direction of groundwater flow;
- (D) The proximity and withdrawal rates of groundwater users:
- (E) The current and future uses of groundwater in the area;
- (F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;
- (G) The potential for health risks caused by human exposure to waste constituents;
- (H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;
- (I) The persistence and permanence of the potential adverse effects.
- (ii) Potential adverse effects on hydraulically-connected surface water quality, considering —
- (A) The volume and physical and chemical characteristics of the waste in the licensed site;
- (B) The hydrogeological characteristics of the facility and surrounding land;
- (C) The quantity and quality of groundwater, and the direction of groundwater flow;
  - (D) The patterns of rainfall in the region;
  - (E) The proximity of the licensed site to surface waters;
- (F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;
- (G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;
- (H) The potential for health risks caused by human exposure to waste constituents:
- (I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
- (J) The persistence and permanence of the potential adverse effects.
- (i) In making any determinations under (h) and (k) of this subsection about the use of groundwater in the area around the facility, the department will consider any identification of underground sources of drinking water and exempted aquifers made by the United States Environmental Protection Agency.
- (j) At the point of compliance, the concentration of a hazardous constituent must not exceed —
- (i) The department approved background concentration of that constituent in the groundwater;
- (ii) The respective value given in the table in subsection (5)(1) of this section if the constituent is listed in the table and if the background level of the constituent is below the value listed; or
- (iii) An alternate concentration limit established by the department.
- (k) Conceptually, background concentrations pose no incremental hazards and the drinking water limits in (j)(i) of this subsection state acceptable hazards but these two options

may not be practically achievable at a specific site. Alternate concentration limits that present no significant hazard may be proposed by licensees for department consideration. Licensees must provide the basis for any proposed limits including consideration of practicable corrective actions, that limits are as low as reasonably achievable, and information on the factors the department must consider.

The department will establish a site specific alternate concentration limit for a hazardous constituent as provided in (j) of this subsection if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will apply its as low as reasonably achievable criterion in this chapter. The department will also consider the following factors:

- (i) Potential adverse effects on groundwater quality, considering —
- (A) The physical and chemical characteristics of the waste in the licensed site including its potential for migration;
- (B) The hydrogeological characteristics of the facility and surrounding land;
- (C) The quantity of groundwater and the direction of groundwater flow;
- (D) The proximity and withdrawal rates of groundwater users;
- (E) The current and future uses of groundwater in the area;
- (F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;
- (G) The potential for health risks caused by human exposure to waste constituents;
- (H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;
- (I) The persistence and permanence of the potential adverse effects.
- (ii) Potential adverse effects on hydraulically-connected surface water quality, considering —
- (A) The volume and physical and chemical characteristics of the waste in the licensed site;
- (B) The hydrogeological characteristics of the facility and surrounding land;
- (C) The quantity and quality of groundwater, and the direction of groundwater flow;
  - (D) The patterns of rainfall in the region;
  - (E) The proximity of the licensed site to surface waters;
- (F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;
- (G) The existing quality of surface water including other sources of contamination and the cumulative impact on surface water quality;
- (H) The potential for health risks caused by human exposure to waste constituents;
- (I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

- (J) The persistence and permanence of the potential adverse effects.
  - (1) MAXIMUM VALUES FOR GROUNDWATER PROTECTION:

Constituent or Property	Maximum Concentration
	Milligrams per liter
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7 -expoxy-	
1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-	
5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane,	
gamma isomer)	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis)	
(p-methoxyphenylethane)	0.1
Toxaphene (C <sub>10</sub> H <sub>10</sub> Cl <sub>6</sub> , Technical chlorinated	
camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic	
acid)	0.01
	Picocuries per liter
Combined radium - 226 and radium - 228	5
Gross alpha - particle activity (excluding	
radon and uranium when producing uranium	
by-product material or thorium when producing	
thorium by-product material)	15

(m) If the groundwater protection standards established under (f) of this subsection are exceeded at a licensed site, a corrective action program must be put into operation as soon as is practicable, and in no event later than eighteen months after the department finds that the standards have been exceeded. The licensee shall submit the proposed corrective action program and supporting rationale for department approval prior to putting the program into operation, unless otherwise directed by the department. The objective of the program is to return hazardous constituent concentration levels in groundwater to the concentration limits set as standards. The licensee's proposed program must address removing the hazardous constituents that have entered the groundwater at the point of compliance or treating them in place. The program must also address removing or treating in place any hazardous constituents that exceed concentration limits in groundwater between the point of compliance and the downgradient facility property boundary. The licensee shall continue corrective action measures to the extent necessary to achieve and maintain compliance with the groundwater protection standard. The department will determine when the licensee may terminate corrective action measures based on data from the groundwater monitoring program and other information that provide reasonable assurance that the groundwater protection standard will not be exceeded.

- (n) In developing and conducting groundwater protection programs, applicants and licensees shall also consider the following:
- (i) Installation of bottom liners (where synthetic liners are used, a leakage detection system must be installed immediately below the liner to ensure major failures are detected if they occur. This is in addition to the groundwater monitoring program conducted as provided in Criterion 7. Where clay liners are proposed or relatively thin, in-situ clay soils are to be relied upon for seepage control, tests must be conducted with representative tailings solutions and clay materials to confirm that no significant deterioration of permeability or stability properties will occur with continuous exposure of clay to tailings solutions. Tests must be run for a sufficient period of time to reveal any effects if they are going to occur (in some cases deterioration has been observed to occur rather rapidly after about nine months of exposure)).
- (ii) Mill process designs which provide the maximum practicable recycle of solutions and conservation of water to reduce the net input of liquid to the tailings impoundment.
- (iii) Dewatering of tailings by process devices and/or insitu drainage systems (at new sites, tailings must be dewatered by a drainage system installed at the bottom of the impoundment to lower the phreatic surface and reduce the driving head of seepage, unless tests show tailings are not amenable to such a system. Where in-situ dewatering is to be conducted, the impoundment bottom must be graded to assure that the drains are at a low point. The drains must be protected by suitable filter materials to assure that drains remain free running. The drainage system must also be adequately sized to assure good drainage).
- (iv) Neutralization to promote immobilization of hazardous constituents.
- (o) Where groundwater impacts are occurring at an existing site due to seepage, action must be taken to alleviate conditions that lead to excessive seepage impacts and restore groundwater quality. The specific seepage control and groundwater protection method, or combination of methods, to be used must be worked out on a site-specific basis. Technical specifications must be prepared to control installation of seepage control systems. A quality assurance, testing, and inspection program, which includes supervision by a qualified engineer or scientist, must be established to assure the specifications are met.
- (p) In support of a tailings disposal system proposal, the applicant/operator shall supply information concerning the following:
- (i) The chemical and radioactive characteristics of the waste solutions.
- (ii) The characteristics of the underlying soil and geologic formations particularly as they will control transport of contaminants and solutions. This includes detailed information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations must be determined. This information must be gathered from borings and field survey methods taken within the proposed impoundment area and in surrounding areas where contaminants might migrate

to groundwater. The information gathered on boreholes must include both geologic and geophysical logs in sufficient number and degree of sophistication to allow determining significant discontinuities, fractures, and channeled deposits of high hydraulic conductivity. If field survey methods are used, they should be in addition to and calibrated with borehole logging. Hydrologic parameters such as permeability may not be determined on the basis of laboratory analysis of samples alone; a sufficient amount of field testing (e.g., pump tests) must be conducted to assure actual field properties are adequately understood. Testing must be conducted to allow estimating chemi-sorption attenuation properties of underlying soil and rock.

- (iii) Location, extent, quality, capacity and current uses of any groundwater at and near the site.
- (q) Steps must be taken during stockpiling of ore to minimize penetration of radionuclides into underlying soils; suitable methods include lining and/or compaction of ore storage
- (6) Criterion 6 (a) In disposing of waste by-product material, licensees shall place an earthen cover (or approved alternative) over tailings or wastes at the end of milling operations and shall close the waste disposal area in accordance with a design¹ which provides reasonable assurance of control of radiological hazards to:
- (i) Be effective for 1,000 years, to the extent reasonably achievable, and, in any case, for at least 200 years; and
- (ii) Limit releases of Radon-222 from uranium by-product materials, and Radon-220 from thorium by-product materials, to the atmosphere so as not to exceed an average<sup>2</sup> release rate of 20 picocuries per square meter per second (pCi/m<sup>2</sup>s) to the extent practicable throughout the effective design life determined pursuant to (a)(i) of this subsection (this criterion). In computing required tailings cover thicknesses, moisture in soils in excess of amounts found normally in similar soils in similar circumstances may not be considered. Direct gamma exposure from the tailings or wastes should be reduced to background levels. The effects of any thin synthetic layer may not be taken into account in determining the calculated radon exhalation level. If nonsoil materials are proposed as cover materials, it must be demonstrated that these materials will not crack or degrade by differential settlement, weathering, or other mechanism, over long-term intervals.
- (b) As soon as reasonably achievable after emplacement of the final cover to limit releases of Radon-222 from uranium by-product material and prior to placement of erosion protection barriers or other features necessary for long-term control of the tailings, the licensees shall verify through appropriate testing and analysis that the design and construction of the final radon barrier is effective in limiting releases of Radon-222 to a level not exceeding 20 pCi/m²s averaged over the entire pile or impoundment using the procedures described in 40 CFR part 61, appendix B, Method 115, or another method of verification approved by the Nuclear Regulatory Commission as being at least as effective in demonstrating the effectiveness of the final radon barrier.
- (c) When phased emplacement of the final radon barrier is included in the applicable reclamation plan, the verification of Radon-222 release rates required in (b) of this subsection

(this criterion) must be conducted for each portion of the pile or impoundment as the final radon barrier for that portion is emplaced.

- (d) Within ninety days of the completion of all testing and analysis relevant to the required verification in (b) and (c) of this subsection (this criterion), the uranium mill licensee shall report to the department the results detailing the actions taken to verify that levels of release of Radon-222 do not exceed 20 pCi/m²s when averaged over the entire pile or impoundment. The licensee shall maintain records until termination of the license documenting the source of input parameters including the results of all measurements on which they are based, the calculations and/or analytical methods used to derive values for input parameters, and the procedure used to determine compliance. These records shall be kept in a form suitable for transfer to the custodial agency at the time of transfer of the site to DOE or a state for long-term care if requested.
- (e) Near surface cover materials (i.e., within the top three meters) may not include waste or rock that contains elevated levels of radium; soils used for near surface cover must be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils. This is to ensure that surface radon exhalation is not significantly above background because of the cover material itself.
- (f) The design requirements in this criterion for longevity and control of radon releases apply to any portion of a licensed and/or disposal site unless such portion contains a concentration of radium in land, averaged over areas of 100 square meters, which, as a result of by-product material, does not exceed the background level by more than:
- (i) 5 picocuries per gram (pCi/g) of radium-226, or, in the case of thorium by-product material, radium-228, averaged over the first 15 centimeters (cm) below the surface; and
- (ii) 15 pCi/g of radium-226, or, in the case of thorium by-product material, radium-228, averaged over 15-cm thick layers more than 15 cm below the surface.
- (g) By-product material containing concentrations of radionuclides other than radium in soil, and surface activity on remaining structures, must not result in a total effective dose equivalent (TEDE) exceeding the dose from cleanup of radium contaminated soil to the standard (benchmark dose) contained in (f) of this subsection, and must be at levels which are as low as is reasonably achievable (ALARA). If more than one residual radionuclide is present in the same 100 square meter area, the sum of the ratios for each radionuclide of concentration present to the concentration limit will not exceed "1" (unity). A calculation of the potential peak annual TEDE within 1000 years to the average member of the critical group that would result from applying the radium standard, not including radon, on the site must be submitted for approval. The use of decommissioning plans with benchmark doses which exceed 100 mrem/yr, before application of ALARA, requires the approval of the department. This requirement for dose criteria does not apply to sites that have decommissioning plans for soil and structures approved before June 11, 1999.
- (h) The licensee shall also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas

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are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the licensee shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.

- In the case of thorium by-product materials, the standard applies only to design. Monitoring for radon emissions from thorium byproduct materials after installation of an appropriately designed cover is not required.
- This average applies to the entire surface of each disposal area over a period of at least one year, but a period short compared to 100 years. Radon will come from both by-product materials and from covering materials. Radon emissions from covering materials should be estimated as part of developing a closure plan for each site. The standard, however, applies only to emissions from by-product materials to the atmosphere.

Criterion 6A - (a) For impoundments containing uranium by-product materials, the final radon barrier must be completed as expeditiously as practicable considering technological feasibility after the pile or impoundment ceases operation in accordance with a written, department-approved reclamation plan. (The term as expeditiously as practicable considering technological feasibility as specifically defined in WAC 246-252-010 includes factors beyond the control of the licensee.) Deadlines for completion of the final radon barrier and, if applicable, the following interim milestones must be established as a condition of the individual license: Windblown tailings retrieval and placement on the pile and interim stabilization (including dewatering or the removal of freestanding liquids and recontouring). The placement of erosion protection barriers or other features necessary for long-term control of the tailings must also be completed in a timely manner in accordance with a written, approved reclamation plan.

- (b) The department may approve a licensee's request to extend the time for performance of milestones related to emplacement of the final radon barrier if, after providing an opportunity for public participation, the department finds that the licensee has adequately demonstrated in the manner required in subsection (6)(b) of this section (Criterion 6) that releases of Radon-222 do not exceed an average of 20 pCi/m<sup>2</sup>s. If the delay is approved on the basis that the radon releases do not exceed 20 pCi/m2s, a verification of radon levels, as required by subsection (6)(b) of this section (Criterion 6), must be made annually during the period of delay. In addition, once the department has established the date in the reclamation plan for the milestone for completion of the final radon barrier, the department may extend that date based on cost if, after providing an opportunity for public participation, the department finds that the licensee is making good faith efforts to emplace the final radon barrier, the delay is consistent with the definitions of available technology, and the radon releases caused by the delay will not result in a significant incremental risk to the public health.
- (c) The department may authorize by license amendment, upon licensee request, a portion of the impoundment to accept uranium by-product material or such materials that are similar in physical, chemical, and radiological characteristics

to the uranium mill tailings and associated wastes already in the pile or impoundment from other sources, during the closure process. No such authorization will be made if it results in a delay or impediment to emplacement of the final radon barrier over the remainder of the impoundment in a manner that will achieve levels of Radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. The verification required in subsection (6)(b) of this section (Criterion 6) may be completed with a portion of the impoundment being used for further disposal if the department makes a final finding that the impoundment will continue to achieve a level of Radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. In this case, after the final radon barrier is complete except for the continuing disposal area:

- (i) Only by-product material will be authorized for disposal;
- (ii) The disposal will be limited to the specified existing disposal area; and
- (iii) This authorization will only be made after providing opportunity for public participation.

Reclamation of the disposal area, as appropriate, must be completed in a timely manner after disposal operations cease in accordance with subsection (6)(a) of this section (Criterion 6); however, these actions are not required to be complete as part of meeting the deadline for final radon barrier construction.

- (7) Criterion 7 At least one full year prior to any major site construction, a preoperational monitoring program must be conducted to provide complete baseline data on a milling site and its environs. Throughout the construction and operating phases of the mill, an operational monitoring program must be conducted to complete the following:
- (a) To measure or evaluate compliance with applicable standards and regulations;
- (b) To evaluate performance of control systems and procedures;
  - (c) To evaluate environmental impacts of operation; and
  - (d) To detect potential long-term effects.

The licensee shall establish a detection monitoring program needed for the department to set the site-specific groundwater protection standards in Criterion 5 of this section. For all monitoring under this paragraph, the licensee or applicant will propose for department approval as license conditions, which constituents are to be monitored on a sitespecific basis. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under Criterion 5. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the

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detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to Criterion 5, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in ground water continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

(8) Criterion 8 - Milling operations shall be conducted so that all airborne effluent releases are reduced to as low as is reasonably achievable. The primary means of accomplishing this shall be by means of emission controls. Institutional controls, such as extending the site boundary and exclusion area, may be employed to ensure that offsite exposure limits are met, but only after all practicable measures have been taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. The greatest potential sources of offsite radiation exposure (aside from radon exposure) are dusting from dry surfaces of the tailings disposal area not covered by tailings solution and emissions from yellowcake drying and packaging operations. During operations and prior to closure, radiation doses from radon emissions from surface impoundments shall be kept as low as is reasonably achievable. Checks shall be made and logged hourly of all parameters (e.g., differential pressure and scrubber water flow rate) which determine the efficiency of yellowcake stack emission control equipment operation. It shall be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action shall be taken when performance is outside of prescribed ranges. Effluent control devices shall be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack.

Drying and packaging operations shall terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions shall be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations shall cease as soon as practicable.

Operations may not be restarted after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All such cessations, corrective actions, and restarts shall be reported to the department in writing, within ten days of the subsequent restart.

To control dusting from tailings, that portion not covered by standing liquids shall be wetted or chemically stabilized to prevent or minimize blowing and dusting to the maximum extent reasonably achievable. This requirement may be relaxed if tailings are effectively sheltered from wind, such as may be the case where they are disposed of below grade and the tailings surface is not exposed to wind. Consideration shall be given in planning tailings disposal programs to methods which would allow phased covering and reclamation of tailings impoundments since this will help in controlling particulate and radon emissions during operation. To control dustings from diffuse sources, such as tailings and ore pads where automatic controls do not apply, operators shall develop written operating procedures specifying the methods of control which will be utilized.

Milling operations producing or involving thorium byproduct material shall be conducted in such a manner as to provide reasonable assurance that the annual dose equivalent does not exceed twenty-five millirems to the whole body, seventy-five millirems to the thyroid, and twenty-five millirems to any other organ of any member of the public as a result of exposures to the planned discharge of radioactive materials, Radon-220 and its daughters excepted, to the general environment.

Uranium and thorium by-product materials shall be managed so as to conform to the applicable provisions of Title 40 of the Code of Federal Regulations, Part 440, Ore Mining and Dressing Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards, Subpart C, Uranium, Radium, and Vanadium Ores Subcategory, as codified on January 1, 1983.

The licensee shall establish a detection monitoring program needed to establish the groundwater protection standards in subsection (5)(f) of this section. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under subsection (5)(f) of this section. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to subsection (5)(f) of this section, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in groundwater continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent

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the existing programs can meet the stated objective for the program.

Daily inspections of tailings or waste retention systems must be conducted by a qualified engineer or scientist and documented. The department must be immediately notified of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

- (9) Criterion 9 (a) Pursuant to chapter 70.121 RCW, and except as otherwise provided, financial surety arrangements for site reclamation and long-term surveillance and control which may consist of surety bonds, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, or any combination of the above, or other arrangements approved by the department, milling operations shall be established for source material to ensure the protection of the public health and safety in the event of abandonment, default, or other inability of the licensee to meet the requirements of the act and these regulations.
- (i) The amount of funds to be ensured by such surety arrangements shall be based on department-approved cost estimates.
- (ii) Self-insurance, or any arrangement which essentially constitutes self-insurance (e.g., a contract with a state or federal agency), will not satisfy the surety requirement, since this provides no additional assurance other than that which already exists through license requirements.
- (b) The arrangements required in (a) of this subsection shall be established prior to commencement of operations to assure that sufficient funds will be available to carry out decontamination and decommissioning of the facility.
- (c) Amendments to licenses in effect on the effective date of this regulation may be issued, providing that the required surety arrangements are established within ninety days after the effective date of this subsection.
- (d) For source material milling operations, the amount of funds to be ensured by such surety arrangements shall be based on department-approved cost estimates in an approved plan for (i) decontamination and decommissioning of mill buildings and the milling site to levels which would allow unrestricted use of these areas upon decommissioning, and (ii) the reclamation of tailings and/or waste disposal areas in accordance with the technical criteria delineated in this section. The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. In addition, the surety shall cover the payment of the charge for long-term surveillance and control required by the department. In establishing specific surety arrangements, the licensee's cost estimates shall take into account total costs that would be incurred if an independent contractor were hired to perform the decommissioning and reclamation work. In order to avoid unnecessary duplication and expense, the department may accept financial sureties

that have been consolidated with financial or surety arrangements established to meet requirements of other federal or state agencies and/or local governing bodies for such decommissioning, decontamination, reclamation, and long-term site surveillance, provided such arrangements are considered adequate to satisfy these requirements and that portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the longterm funding charge is clearly identified and committed for use in accomplishing these activities. The licensee's surety mechanism will be reviewed annually by the department to assure that sufficient funds will be available for completion of the reclamation plan if the work had to be performed by an independent contractor. The amount of surety liability should be adjusted to recognize any increases or decreases resulting from inflation, changes in engineering plans, activities performed, and any other conditions affecting costs. Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability shall be retained until final compliance with the reclamation plan is determined. This will yield a surety that is at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a surety instrument which is written for a specific period of time (e.g., five years), yet which must be automatically renewed unless the surety notifies the beneficiary (the state regulatory agency) and the principal (the licensee) some reasonable time (e.g., ninety days) prior to the renewal date of their intention not to renew. In such a situation, the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief period of time to allow at least sixty days for the department to collect.

Proof of forfeiture must not be necessary to collect the surety so that in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above would have to be clearly stated on any surety instrument which is not openended and must be agreed to by all parties.

Long-term care requirements. Pursuant to chapter 70.121 RCW, and as otherwise provided in WAC 246-235-086(4), a long-term care trust fund shall be established by source material milling licensees prior to the issuance of the license.

(10) Criterion 10 - (a) A minimum charge of two hundred fifty thousand dollars (1978 United States dollars) accrued as specified in WAC 246-235-086(4) to cover the costs of long-term surveillance shall be paid by each mill operator to the agency prior to the termination of a uranium or thorium mill license. If site surveillance or control requirements at a particular site are determined, on the basis of a site-specific evaluation, to be significantly greater than those specified in (a) of this subsection (e.g., if fencing is determined to be necessary), variance in funding requirements may be specified by the department. The total charge to cover

the costs of long-term surveillance shall be such that, with an assumed one percent annual real interest rate, the collected funds will yield interest in an amount sufficient to cover the annual costs of site surveillance. The charge will be adjusted annually prior to actual payments to recognize inflation. The inflation rate to be used is that indicated by the change in the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics. Contributions by a licensee to the long-term care trust fund pursuant to chapter 70.121 RCW shall be transferred to cover the costs assessed under this criterion.

(11) Criterion 11 - These criteria relating to ownership of tailings and their disposal sites become effective on November 8, 1981, and apply to all licenses terminated, issued, or renewed after that date.

Any uranium or thorium milling license or tailings license shall contain such terms and conditions as the United States Nuclear Regulatory Commission determines necessary to assure that prior to termination of the license, the licensee will comply with ownership requirements of this criterion for sites used for tailings disposal.

Title to the by-product material licensed pursuant to WAC 246-252-030 and land, including any interests therein (other than land owned by the United States or by the state of Washington) which is used for the disposal of any such byproduct material, or is essential to ensure the long-term stability of such disposal site, shall be transferred to the United States or the state of Washington. In view of the fact that physical isolation must be the primary means of long-term control, and government land ownership is a desirable supplementary measure, ownership of certain severable subsurface interests (for example, mineral rights) may be determined to be unnecessary to protect the public health and safety and the environment. In any case, the applicant/operator must demonstrate a serious effort to obtain such subsurface rights, and must, in the event that certain rights cannot be obtained, provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to either a United States Nuclear Regulatory Commission general or specific license prohibiting the disruption and disturbance of the tailings. In some rare cases, such as may occur with deep burial where no ongoing site surveillance will be required, surface land ownership transfer requirements may be waived. For licenses issued before November 8, 1981, the United States Nuclear Regulatory Commission may take into account the status of the ownership of such land, and interests therein, and the ability of a licensee to transfer title and custody thereof to the United States or the state. If the United States Nuclear Regulatory Commission, subsequent to title transfer, determines that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a state will not endanger the public health, safety, welfare or environment, the United States Nuclear Regulatory Commission may permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions provided in these criteria. If the United States Nuclear Regulatory Commission permits such use of such land, it will provide the person who transferred such land with the right of first refusal with respect to such use of such land.

Material and land transferred to the United States or a state in accordance with this criterion must be transferred without cost to the United States or a state other than administrative and legal costs incurred in carrying out such transfer.

The provisions of this part, respecting transfer of title and custody to land and tailings and wastes, do not apply in the case of lands held in trust by the United States for any Indian tribe, or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in this section, the licensee shall enter into arrangements with the United States Nuclear Regulatory Commission as may be appropriate to assure the long-term surveillance of such lands by the United States.

- (12) Criterion 12 The final disposition of tailings or wastes at milling sites should be such that ongoing active maintenance is not necessary to preserve isolation. As a minimum, annual site inspections must be conducted by the government agency retaining ultimate custody of the site where tailings or wastes are stored, to confirm the integrity of the stabilized tailings or waste systems, and to determine the need, if any, for maintenance and/or monitoring. Results of the inspection must be reported to the United States Nuclear Regulatory Commission within sixty days following each inspection. The United States Nuclear Regulatory Commission may require more frequent site inspections if, on the basis of a site-specific evaluation, such a need appears necessary, due to the features of a particular tailings or waste disposal system.
- (13) Criterion 13 Secondary groundwater protection standards required by Criterion 5 of this section are concentration limits for individual hazardous constituents. The list of constituents found in Appendix A of this chapter, chapter 246-252 WAC, identifies the constituents for which standards must be set and complied with if the specific constituent is reasonably expected to be in or derived from the byproduct material and has been detected in groundwater. For purposes of this criterion, the property of gross alpha activity will be treated as if it is a hazardous constituent. Thus, when setting standards under subsection (5)(j) of this section, the department will also set a limit for gross alpha activity.

### WSR 02-11-044 EXPEDITED RULES DEPARTMENT OF REVENUE

[Filed May 8, 2002, 1:04 p.m.]

Title of Rule: WAC 458-20-217 Lien for taxes.

Purpose: To explain the department's administrative collection remedies and procedures for delinquent liabilities.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.32.210, 82.32.220, 82.32.235, 82.32.237, and 82.32.145.

Summary: Rule 217 explains the administrative collection remedies and procedures available to the Department of Revenue to collect unpaid and overdue tax liabilities. The rule also explains the personal liability of persons in control of collected but unpaid sales tax.

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Reasons Supporting Proposal: To correct the erroneous citation of Title 32 RCW found in subsection (8)(f).

Name of Agency Personnel Responsible for Drafting: Alan R. Lynn, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6125; Implementation: Claire Hesselholt, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6124; and Enforcement: Russell Brubaker, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6131.

Name of Proponent: Department of Revenue, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the administrative collection remedies and procedures available to the Department of Revenue to collect unpaid and overdue tax liabilities. It discusses tax liens and liens that apply to probate, insolvency, assignments for the benefit of creditors, bankruptcy, and public improvement contracts. The rule also explains the personal liability of persons in control of collected but unpaid sales tax.

The rule provides important information regarding collection remedies authorized by several different statutes. Some of these remedies require certain actions by a person who is not the taxpayer (e.g., the recipient of a "Notice and order to withhold and deliver"). The information in this rule reduces the need for a person to research multiple documents to determine his or her responsibilities and the effect of the department's administrative collection remedies.

The department is proposing a revision to subsection (8)(f) of this rule. This subsection currently explains that a person receiving a notice of a personal liability assessment for retail sales taxes collected but not remitted to the department is encouraged to contact the department's local field office that issued the assessment and request a supervisory conference if the person disputes the assessment. This subsection also explains that if unable to reach agreement, RCW 82.32.145(4) provides that the person is entitled to the administrative and judicial appeal procedures provided by Title 32 RCW.

The department is proposing to replace the erroneous citation to Title 32 RCW with the specific statutory citations identified in RCW 82.32.145(4), which are RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200. The proposed changes to this subsection also identify the department representative that issued the assessment and/or the representative's supervisor as the person to contact for requesting a supervisory conference. A citation to WAC 458-20-100 for information about the department's administrative appeal procedures has also been added.

Proposal Changes the Following Existing Rules: This is a proposal to revise WAC 458-20-217, as explained above.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT

LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Alan R. Lynn, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, AND RECEIVED BY July 22, 2002.

May 7, 2002

Alan R. Lynn, Rules Coordinator Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 00-16-016, filed 7/21/00, effective 8/21/00)

WAC 458-20-217 Lien for taxes. (1) Introduction. This rule provides an overview of the administrative collection remedies and procedures available to the department of revenue (department) to collect unpaid and overdue tax liabilities. It discusses tax liens and the liens that apply to probate, insolvency, assignments for the benefit of creditors, bankruptcy and public improvement contracts. The rule also explains the personal liability of persons in control of collected but unpaid sales tax. Although the department may use judicial remedies to collect unpaid tax, most of the department's collection actions are enforced through the administrative collection remedies discussed in this rule.

- (2) **Tax liens.** The department is not required to obtain a judgment in court to have a tax lien. A tax lien is created when a warrant issued under RCW 82.32.210 is filed with a superior court clerk who enters it into the judgment docket. A copy of the warrant may be filed in any county in this state in which the department believes the taxpayer has real and/or personal property. The department is not required to give a taxpayer notice prior to filing a tax warrant. *Peters v Sjoholm*, 95 Wn.2d 871, 877, 631 P.2d 937 (1981) appeal dismissed, cert. denied 455 U.S. 914 (1982). The tax lien is an encumbrance on property. The department may enforce a tax lien by administrative levy, seizure or through judicial collection remedies.
- (a) Attachment of lien. The filed warrant becomes a specific lien upon all personal property used in the conduct of the business and a general lien against all other real and personal property owned by the taxpayer against whom the warrant was issued.
- (i) The specific lien attaches to all goods, wares, merchandise, fixtures, equipment or other personal property used in the conduct of the business of the taxpayer. Other personal property includes both tangible and intangible property. For example, the specific lien attaches to business assets such as accounts receivable, chattel paper, royalties, licenses and franchises. The specific lien also attaches to property used in the business which is owned by persons other than the taxpayer who have a beneficial interest, direct or indirect, in the operation of the business. (See subsection (3) below for what constitutes a beneficial interest.) The lien is perfected on the date it is filed with the superior court clerk. The lien does not attach to property used in the business that was transferred prior to the filing of the warrant. It does attach to all property existing at the time the warrant is filed as well as property

acquired after the filing of the warrant. No sale or transfer of such personal property affects the lien.

- (ii) The general lien attaches to all real and personal nonbusiness property such as the taxpayer's home and nonexempt personal vehicles.
- (b) Lien priorities. The department does not need to levy or seize property to perfect its lien. The lien is perfected when the warrant is filed. The tax lien is superior to liens that yest after the warrant is filed.
- (i) The lien for taxes is superior to bona fide interests of third persons that vested prior to the filing of the warrant if such persons have a beneficial interest in the business.
- (ii) The lien for taxes is also superior to any interest of third persons that vested prior to the warrant if the interest is a mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as the trustee for unsecured creditors of the taxpayer mentioned in the warrant.
- (iii) In most cases, to have a vested or perfected security interest in personal property, the secured party must file a UCC financing statement indicating its security interest. RCW 62A.9-301. See RCW 62A.9-302 for the exceptions to this general rule. The financing statement must be filed prior to the filing of the tax warrant for the lien to be superior to the department's lien.
- (c) **Period of lien.** A filed tax warrant creates a lien that is enforceable for the same period as a judgment in a civil case that is docketed with the clerk of the superior court. RCW 82.32.210(4). A judgment lien expires ten years from the date of filing. RCW 4.56.310. The department may extend the lien for an additional ten years by filing a petition for an order extending the judgment with the clerk of the superior court. The petition must be filed within ninety days of the expiration of the original ten-year period. RCW 6.17.020.
- (3) Persons who have a beneficial interest in a business. A third party who receives part of the profit, a benefit, or an advantage resulting from a contract or lease with the business has a beneficial interest in the operation of the business. A party whose only interest in the business is securing the payment of debt or receiving regular rental payments on equipment does not have a beneficial interest. Also, the mere loaning of money by a financial institution to a business and securing that debt with a UCC filing does not constitute a beneficial interest in the business. Rather, a party who owns property used by a delinquent taxpayer must also have a beneficial interest in the operation of that business before the lien will attach to the party's property. The definition of the term "beneficial interest" for purposes of determining lien priorities is not the same as the definition used for tax free transfers described in WAC 458-20-106.
- (a) Third party. A third party is simply a party other than the taxpayer. For example, if the taxpayer is a corporation, an officer or shareholder of that corporation is a "third party" with a beneficial interest in the operation of the business. If the corporate insider has a security interest in property used by the business, the tax lien will be superior even if the corporate insider's lien was filed before the department's lien.

- (b) **Beneficial interest of lessor.** In some cases a lessor or franchisor will have a beneficial interest in the leased or franchised business. For example, an oil company that leases a gas station and other equipment to an operator and requires the operator to sell its products is a third party with a beneficial interest in the business. Factors which support a finding of a beneficial interest in a business include the following:
- (i) The business operator is required to pay the lessor or franchisor a percentage of gross receipts as rent;
- (ii) The lessor or franchisor requires the business operator to use its trade name and restricts the type of business that may be operated on the premises;
- (iii) The lease places restrictions on advertising and hours of operation; and/or
- (iv) The lease requires the operator to sell the lessor's products.
- (c) A third party who has a beneficial interest in a business with a filed lien is not personally liable for the amounts owing. Instead, the amount of tax, interest and penalties as reflected in the warrant becomes a specific lien upon the third party's property that is used in the business.
- (4) Notice and order to withhold and deliver. A tax lien is sufficient to support the issuance of a writ of garnishment authorized by chapter 6.27 RCW. RCW 82.32.210(4). A tax lien also allows the department to issue a notice and order to withhold and deliver. A notice and order to withhold and deliver (order) is an administrative garnishment used by the department to obtain property of a taxpayer from a third party such as a bank or employer. See RCW 82.32.235. The department may issue an order when it has reason to believe that a party is in the possession of property that is or shall become due, owing or belonging to any taxpayer against whom a warrant has been filed.
- (a) **Service of order.** The department may serve an order to withhold and deliver to any person, or to any political subdivision or department of the state. The order may be served by the sheriff or deputy sheriff of the county where service is made, by any authorized representative of the department, or by certified mail.
- (b) Requirement to answer order. A person upon whom service has been made is required to answer the order in writing within twenty days of service of the order. The date of mailing or date of personal service is not included when calculating the due date of the answer. All answers must be true and made under oath. If an answer states that it cannot presently be ascertained whether any property is or shall become due, owing, or belonging to such taxpayer, the person served must answer when such fact can be ascertained. RCW 82.32.235.
- (i) If the person served with an order possesses property of the taxpayer subject to the claim of the department, the party must deliver the property to the department or its duly authorized representative upon demand. If the indebtedness involved has not been finally determined, the department will hold the property in trust to apply to the indebtedness involved or for return without interest in accordance with the final determination of liability or nonliability. In the alternative, the department must be furnished a satisfactory bond

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conditioned upon final determination of liability. RCW 82.32.235.

- (ii) If the party upon whom service has been made fails to answer an order to withhold and deliver within the time prescribed, the court may enter a default judgment against the party for the full amount claimed owing in the order plus costs. RCW 82.32.235.
- (c) Continuing levy. A notice and order to withhold and deliver constitutes a continuing levy until released by the department. RCW 82.32.237.
- (d) Assets that may be attached. Both tangible assets, as a vehicle, and intangible assets may be attached. Examples of intangible assets that may be attached by an order to withhold and deliver include, but are not limited to, checking or savings accounts; accounts receivable; refunds or deposits; contract payments; wages and commissions, including bonuses; liquor license deposits; rental income; dealer reserve accounts held by service stations or auto dealers; and funds held in escrow pending sale of a business. Certain insurance proceeds are subject to attachment such as the cash surrender value of a policy. The department may attach funds in a joint account that are owned by the delinquent taxpayer. Funds in a joint account with the right of survivorship are owned by the depositors in proportion to the amount deposited by each. RCW 30.22.090. The joint tenants have the burden to prove the separate ownership.
- (e) Assets exempt from attachment. Examples of assets which are not attachable include Social Security, railroad retirement, welfare, and unemployment benefits payable by the federal or state government.
- (5) Levy upon real and/or personal property. The department may issue an order of execution, pursuant to a filed warrant, directing the sheriff of the county in which the warrant was filed to levy upon and sell the real and/or personal property of the taxpayer in that county. RCW 82.32.220. If the department has reason to believe that a taxpayer has personal property in the taxpayer's possession that is not otherwise exempt from process or execution, the department may obtain a warrant to search for and seize the property. A search warrant is obtained from a superior or district court judge in the county in which the property is located. See RCW 82.32.245.
- (6) Probate, insolvency, assignment for the benefit of creditors or bankruptcy. In all of these cases or conditions, the claim of the state for unpaid taxes and increases and penalties thereon, is a lien upon all real and personal property of the taxpayer. RCW 82.32.240. All administrators, executors, guardians, receivers, trustees in bankruptcy, or assignees for the benefit of creditors are required to notify the department of such administration, receivership, or assignment within sixty days from the date of their appointment and qualification. In cases of insolvency, this includes the duty of the person who is winding down the business to notify the department.
- (a) The state does not have to take any action to perfect its lien. The lien attaches the date of the assignment for the benefit of creditors or of the initiation of the probate or bankruptcy. In cases of insolvency, the lien attaches at the time the business becomes insolvent. The lien, however, does not

- affect the validity or priority of any earlier lien that may have attached in favor of the state under any other provision of the Revenue Act.
- (b) Any administrator, executor, guardian, receiver, or assignee for the benefit of creditors who does not notify the department as provided above is personally liable for payment of the taxes and all increases and penalties thereon. The personal liability is limited to the value of the property subject to administration that otherwise would have been available to pay the unpaid liability.
- (c) In probate cases in which a surviving spouse is separately liable for unpaid taxes and increases and penalties thereon, the department does not need to file a probate claim to protect the state's interest against the surviving spouse. The department may collect from the surviving spouse's separate property and any assets formerly community property which become the surviving spouse's property. If the deceased spouse and/or the community also was liable for the tax debt, the claim also could be asserted in the administration of the deceased spouse's estate.
- (7) Lien on retained percentage of public improvement contracts. Every public entity engaging a contractor under a public improvement project of twenty thousand dollars or more, shall retain five percent of the total contract price, including all change orders, modifications, etc. This retainage is a trust fund held for the benefit of the department and other statutory claimants. In lieu of contract retainage, the public entity may require a bond. All taxes, increases, and penalties due or to become due under Title 82 RCW from a contractor or the contractor's successors or assignees with respect to a public improvement contract of twenty thousand dollars or more shall be a lien upon the amount of the retained percentage withheld by the disbursing officer under such contract. RCW 60.28.040.
- (a) **Priorities.** The employees of a contractor or the contractor's successors or assignees who have not been paid the prevailing wage under the public improvement contract have a first priority lien against the bond or retainage. The department's lien for taxes, increases, and penalties due or to become due under such contract is prior to all other liens. The amount of all other taxes, increases and penalties due from the contractor is a lien upon the balance of the retained percentage after all other statutory lien claims have been paid. RCW 60.28.040.
- (b) Release of funds. Upon final acceptance by the public entity or completion of the contract, the disbursing officer shall contact the department for its consent to release the funds. The officer cannot make any payment from the retained percentage until the department has certified that all taxes, increases, and penalties due have been paid or are readily collectible without recourse to the state's lien on the retained percentage. RCW 60.28.050 and 60.28.051.
- (8) Personal liability for unpaid trust funds. The retail sales tax is to be held in trust. RCW 82.08.050. As a trust fund, the retail sales tax is not to be used to pay other corporate or personal debts. RCW 82.32.145 imposes personal liability on any responsible person who willfully fails to pay or cause to be paid any collected but unpaid retail sales tax. Collection authority and procedures prescribed in chap-

[13] Expedited

ter 82.32 RCW apply to the collection of trust fund liability assessments.

- (a) **Responsible person.** A responsible person is any officer, member, manager, or other person having control or supervision of retail sales tax funds collected and held in trust or who has the responsibility for filing returns or paying the collected retail sales tax.
- (i) A responsible person may have "control and supervision" of collected retail sales tax or the responsibility to report the tax under corporate bylaws, job description, or other proper delegation of authority. The delegation of authority may be established by written documentation or by conduct.
- (ii) A responsible person must have significant but not necessarily exclusive control or supervision of the trust funds. Neither a sales clerk who only collects the tax from the customer nor an employee who only deposits the funds in the bank has significant supervision or control of the retail sales tax. An employee who has the responsibility to collect, account for, and deposit trust funds does have significant supervision or control of the tax.
- (iii) A person is not required to be a corporate officer or have a proprietary interest in the business to be a responsible person.
- (iv) A member of the board of directors, a shareholder, or an officer may have trust fund liability if that person has the authority and discretion to determine which corporate debts should be paid and approves the payment of corporate debts out of the collected retail sales trust funds.
- (v) More than one person may have personal liability for the trust funds if the requirements for liability are present for each person.
- (b) **Requirements for liability.** In order for a responsible person to be held personally liable for collected and unpaid retail sales tax:
- (i) The tax must be the liability of a corporate or limited liability business;
- (ii) The corporation must be terminated, dissolved, or abandoned:
  - (iii) The failure to pay must be willful; and
- (iv) The department must not have a reasonable means of collecting the tax from the corporation.
- (c) Willful failure to pay. A willful failure to pay means that the failure was an intentional, conscious, and voluntary course of action. An intent to defraud or a bad motive is not required. For example, using collected retail sales tax to pay other corporate obligations is a willful failure to pay the trust funds to the state.
- (i) A responsible person depositing retail sales tax funds in a bank account knowing that the bank might use the funds to off-set amounts owing to it is engaging in a voluntary course of action. It is a willful failure to pay if the bank does exercise its right of set off which results in insufficient funds to pay the corporate retail sales tax that was collected and deposited in the account. To avoid personal liability in such a case, the responsible party can set aside the collected retail sales tax and not commingle it with other funds that are subject to attachment or set off.

- (ii) If the failure to pay the trust funds to the state was due to reasons beyond that person's control, the failure to pay is not willful. For example, if the person responsible for remitting the tax provides evidence that the trust funds were unknowingly stolen or embezzled by another employee, the failure to pay is not considered willful. To find that a failure to pay the trust funds to the state was due to reasons beyond that person's control, the facts must show both that the circumstances caused the failure to pay the tax and that the circumstances were beyond the person's control.
- (iii) If a responsible person instructs an employee or hires a third party to remit the collected sales tax, the responsible person is not relieved of personal liability for the tax if the tax is not paid.
- (d) Extent of liability. Trust fund liability includes the collected but unpaid retail sales tax as well as the interest and penalties due on the tax.
- (i) An individual is only liable for trust funds collected during the period he or she had the requisite control, supervision, responsibility, or duty to remit the tax, plus interest and penalties on those taxes. RCW 82.32.145(2).
- (ii) Any retail sales taxes that were paid to the department but not collected may be deducted from the retail sales taxes collected but not paid.
- (e) No reasonable means of collection. The department has "no reasonable means of collection" if the costs of collection would be more than the amount that could be collected; if the amount that might be recovered through a levy, foreclosure or other collection action would be negligible; or if the only means of collection is against a successor corporation.
- (f) Appeal of personal liability assessment. ((Persons who receive a notice of a personal liability assessment under RCW 82.32.145 are encouraged to contact the department's local field office that issued the assessment and request a supervisory conference if they dispute the assessment. If they are unable to reach agreement, any person who receives a personal liability assessment is entitled to the administrative and judicial appeal procedures provided by Title 32 RCW. RCW-82.32.145(4).)) Any person who receives a personal liability assessment is encouraged to request a supervisory conference if the person disagrees with the assessment. The request for the conference should be made to the department representative that issued the assessment or the representative's supervisor at the department's field office. A supervisory conference provides an opportunity to resolve issues with the assessment without further action. If unable to resolve the issue, the person receiving the assessment is entitled to administrative and judicial appeal procedures. RCW 82.32.145(4). See also RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

While encouraged to request a supervisory conference, any person receiving a personal liability assessment may elect to forego the supervisory conference and proceed directly with an appeal of the assessment. Refer to WAC 458-20-100 for information about the department's administrative appeal procedures, including how to timely file a petition for appeal.

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#### WSR 02-11-056 **EXPEDITED RULES** DEPARTMENT OF NATURAL RESOURCES

[Order 707—Filed May 10, 2002, 1:42 p.m.]

Title of Rule: WAC 332-10-041 Meetings of the Board of Natural Resources.

Purpose: To amend the rule to allow board member participation at board meetings by telephone or other electronic

Statutory Authority for Adoption: RCW 43.30.150 (5), (6), (9), and 42.30.030.

Statute Being Implemented: RCW 43.30.150 (5), (6), (9), and 42.30.030.

Summary: The amended rule will provide for members of the Board of Natural Resources to participate at the board meetings and perform all officials functions of their duties by telephone or other electronic means so as to ensure that those attending the public meeting can hear the discussions consistent with the Open Public Meetings Act, chapter 42.30 RCW.

Reasons Supporting Proposal: Efficient use of modern technology to reduce costs and provide a reasonable alternative for board members to participate in board meetings and function in their official capacity without being physically present at the meeting and while fully complying with the public's right to open public meetings.

Name of Agency Personnel Responsible for Drafting: Christa Thompson, P.O. Box 40100, Olympia, WA 98504-0100, (360) 586-3511; and Implementation: Doug Sutherland, P.O. Box 47001, Olympia, WA 98504-7001, (360) 902-1004.

Name of Proponent: Washington Department of Natural Resources, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The amended rule will provide for members of the Board of Natural Resources to participate at board meetings and perform all official functions of their duties by telephone or other electronic means so as to ensure that those attending the public meeting can hear the discussions consistent with the Open Public Meetings Act, chapter 42.30 RCW.

Efficient use of modern technology to reduce costs and provide a reasonable alternative for board members to participate in board meetings and function in their official capacity without being physically present at the meeting and while fully complying with the public's right to open public meetings.

Proposal does not change existing rules.

#### **NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU

MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO David Dietzman, Department of Natural Resources, P.O. Box 47015, Olympia, WA 98504-7015, AND RECEIVED BY July 22, 2002.

May 10, 2002 Doug Sutherland Commissioner of Public Lands

AMENDATORY SECTION (Amending Order 606, filed 10/2/92)

WAC 332-10-041 Meetings of board of natural resources. (1) Regular meetings of the board of Natural Resources shall be held on the first Tuesday of every month except August. If a regular meeting falls on a holiday, such regular meeting shall be held on the next business day. A schedule of meetings will be published in the Washington Register in January of each year. Changes to the schedule will be published in the state register pursuant to RCW 42.30.075. Special meetings may be held pursuant to RCW 42.30.080. Any person may obtain information about locations and meeting times by contacting the Department of Natural Resources, P.O. Box 47001, Olympia, Washington 98504-7001. The public is invited to attend and comment at all meetings.

(2) Members of the Board of Natural Resources may participate by telephone in any regular or special meeting so long as a speaker phone is available at the public meeting location. To assure that all discussions comply with RCW 42.30.030, if more than one Board member is participating by telephone, then each such Board member shall use a separate telephone line or a separate telephone. If other electronic means of attending meetings from remote locations are available, Board members may employ these means so long as Board discussion can be heard by those attending the public meeting consistent with the Open Public Meetings Act RCW 42.30. Board members participating by telephone or other electronic means may vote on any matter and shall be considered as part of the quorum.

#### WSR 02-11-072 EXPEDITED RULES DEPARTMENT OF FISH AND WILDLIFE

[Filed May 13, 2002, 3:51 p.m.]

Title of Rule: Commercial fishing rules.

Purpose: Amend Willapa Bay fall salmon net rules. Statutory Authority for Adoption: RCW 77.12.047. Statute Being Implemented: RCW 77.12.047.

Summary: Amend Willapa Bay salmon net rules to conform with recommendations from the Pacific Fisheries Management Council.

Reasons Supporting Proposal: Provide for commercial fishing opportunity.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 600 Capitol Way North, Olympia, 902-2930; Implementation: Lew Atkins, 600 Capitol Way North, Olympia, 902-2651; and Enforcement: Bruce Bjork, 600 Capitol Way North, Olympia, 902-2373.

Name of Proponent: Department of Fish and Wildlife, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Each spring, a series of salmon harvest recommendations are made by harvest managers and resource users in the context of the Pacific Fisheries Management Council. These recommendations affect harvest in coastal waters, which then sets escapement limits for internal waters such as Puget Sound, the coastal harbors, and the Columbia River. The proposals in this rule deal with the commercial salmon net fisheries in Willapa Bay. The rule on quick reporting will provide a better catch accounting.

Proposal Changes the Following Existing Rules: Salmon seasons and areas. Salmon sales quick reporting.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS. YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Evan Jacoby, Rules Coordinator, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY July 22, 2002.

> May 13, 2002 Evan Jacoby Rules Coordinator

AMENDATORY SECTION (Amending Order 01-104, filed 6/15/01, effective 7/16/01)

WAC 220-40-027 Salmon—Willapa Bay fall fishery. August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

#### Fishing periods

(1) Gill net gear may be used to fish for salmon:

Time 6:00 p.m. August ((27)) 26 through 6:00 p.m. August ((28, 2001)) 27,

Area

Areas 2G east of a line drawn true north-south through Willapa ((Channel)) Bay entrance ((buoy12)) Day beacon 11, 2M, 2H west of Willapa Channel Marker 35, and 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2)

((6:00 p.m. September 9 through-6:00 p.m. September 10, 2001

Area

Area 2G west of a line drawn true north-south through Willapa Channel Marker 10 and east of a line drawn true north south from the most-waterward exposed end of the rock jetty located near Washaway Beach and excluding the areasoutherly and easterly of a line from Island Sands Light to Ramsey-Point.))

6:00 p.m. September ((16)) 15 through 6:00 p.m. September 30, ((2001)) 2002

6:00 p.m. September ((16)) 15 through 6:00 p.m. September ((17)) 16 and 6:00 p.m. September ((23)) 22 through 6:00 p.m. September ((24, 2001)) 23, 2002

((7:30 a.m. October 3)) 6:00 p.m. September 30 through ((6:30)) 6:00 p.m. October 3 and ((7:30 a.m.)) 6:00 p.m. October ((11)) 9 through ((6:30)) 6:00 p.m. October ((11, <del>2001</del>)) <u>10, 2002</u>

6:00 p.m. October ((16)) 14 through 6:00 p.m. October ((18)) 17 and 6:00 p.m. October ((23)) 21 through 6:00 p.m. October ((25, <del>2001</del>)) <u>23, 2002</u>

Area 2K

Areas 2G east of a line drawn true north-south through Willapa ((Channel)) Bay entrance ((buoy-12)) Day beacon 11, 2M, 2H, and 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2)

Areas 2G west of a line drawn true north-south through Willapa Channel Marker 10 and east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach but excluding the area southerly and westerly of a line from Island Sands Light to Ramsey Point, 2M and 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin

Noon, November 6 through noon November 30, ((2001)) 2002

Areas 2G, 2H, 2J and 2M

(2) The Tokeland Boat basin is closed to commercial fishing during the openings in SMCRA 2G described in this section. The Tokeland Boat basin means that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

#### Gear

- (3) Gill net gear restrictions All areas:
- (a) Drift gill net gear only. It is unlawful to use set net gear.
- (b) Prior to September 1, ((2001)) 2002 No maximum mesh restrictions.
- (c) September 1 through ((October 14, 2001)) September 30, 2002 - 6-inch maximum mesh, no more than 55 meshes deep. Net must hang straight from top to bottom. Strings may only be used to secure break away panels.
- (d) October ((15)) 1 through October 31, 2001 6-1/2 inch maximum mesh.
- (e) November 1 through November 30, 2001 9-inch minimum mesh.

#### **Other**

(4) All wholesale dealers and fishers retailing their fish will be required to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1280 or faxing the information to 360-664-4689 or e-mailing to harborfishtickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species. The total number for each species and the total weight for each species.

# WSR 02-11-073 EXPEDITED RULES DEPARTMENT OF FISH AND WILDLIFE

[Filed May 13, 2002, 3:52 p.m.]

Title of Rule: Commercial fishing rules.
Purpose: Amend Puget Sound salmon net rules.
Statutory Authority for Adoption: RCW 77.12.047.
Statute Being Implemented: RCW 77.12.047.

Summary: Amend Puget Sound salmon net rules to conform with recommendations from the Pacific Fisheries Management Council.

Reasons Supporting Proposal: Provide for commercial fishing opportunity.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 600 Capitol Way North, Olympia, 902-2930; Implementation: Lew Atkins, 600 Capitol Way North, Olympia, 902-2651; and Enforcement: Bruce Bjork, 600 Capitol Way North, Olympia, 902-2373.

Name of Proponent: Department of Fish and Wildlife, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Each spring, a series of salmon harvest recommendations are made by harvest managers and resource users in the context of the Pacific Fisheries Management Council. These recommendations affect harvest in coastal waters, which then sets escapement limits for internal waters such as Puget Sound, the coastal harbors, and the Columbia River. The proposals in this rule deal with the commercial salmon net fisheries in Puget Sound. The rule on salmon retention will provide a better accounting of catch. The purse seine mesh size change will accommodate fishers with older nets with no biological impact. The remaining sections set seasons and areas pursuant to preseason forecasts.

Proposal Changes the Following Existing Rules: Salmon seasons and areas. Salmon purse seine net mesh size. Salmon retention rules.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS

ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Evan Jacoby, Rules Coordinator, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY July 22, 2002.

May 13, 2002 Evan Jacoby Rules Coordinator

AMENDATORY SECTION (Amending Order 01-32, filed 3/13/01, effective 4/13/01)

WAC 220-20-016 Sale and purchase of commercial caught salmon. (1) It is unlawful for any person licensed to take salmon for commercial purposes as required under chapter 77.65 RCW to:

- (a) Retain for personal use more than the equivalent of one daily sport bag limit for the area being fished. All salmon taken under commercial license must be recorded on state of Washington fish receiving tickets. The daily limit and possession limit described in this subsection also apply to crew members of the licensed fishing vessel.
- (b) Sell any salmon he takes under such license to anyone other than a licensed wholesale dealer located within or outside the state of Washington: Provided, That a person who is himself licensed as a wholesale dealer under the provisions of RCW 77.65.280 may sell his catch to individuals or corporations other than licensed wholesale dealers.
- (c) Sell, barter or attempt to sell or barter ((ehum)) salmon eggs that have been removed from the body cavity of ((ehum)) salmon unless all carcasses from which eggs have been removed are sold to the same buyer.
- (d) Discard ((chum)) salmon that may be lawfully retained except fishers may discard salmon that are unmarketable due to seal predation.
- (2) It is unlawful for any person licensed as a wholesale dealer as required under RCW 77.65.280 and acting in the capacity as an original receiver to purchase or attempt to purchase ((ehum)) salmon eggs without also purchasing all male and female ((ehum)) salmon taken by the fisher, including the salmon carcasses from which the eggs were removed.

AMENDATORY SECTION (Amending Order 01-32, filed 3/13/01, effective 4/13/01)

WAC 220-47-301 Puget Sound—Lawful gear—Purse seine. (1) Lawful purse seine salmon nets in Puget Sound shall not exceed 1,800 feet in length along the cork line while wet, and purse seine and lead combined shall not exceed 2,200 feet. Neither shall contain meshes of a size less than ((4)) 3 1/2 inches, nor shall the meshes of the seine and lead be lashed together to form one continuous piece of webbed gear. It shall be lawful as part of the purse seine to have a bunt not more than 10 fathoms long which may contain mesh of a size not less than 3-1/2 inches.

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**AREA** 

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- (2) It shall be unlawful to take or fish for salmon with purse seine gear in Puget Sound which contains mesh webbing constructed of a twine size smaller than 210/30d nylon, 12 thread cotton or the equivalent diameter in any other material.
- (3) It shall be unlawful for any purse seine vessel to carry an extra lead or portion thereof unless stowed below decks during the fishing operation, nor may an extra lead or portion thereof be carried aboard its skiff.
- (4) Purse seine mesh size shall be defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh. Minimum mesh size is met if a wedge of legal size can be passed without undue force through the mesh while wet.
- (5) A purse seine will not be considered to be fishing once both ends of the seine are attached to the primary vessel.
- (6) It shall be unlawful to take or fish for salmon with purse seine gear in Puget Sound unless at least four sections, each measuring no less than 12 inches in length, along the corkline in the bunt and within 75 fathoms of the bunt have no corks or floats attached. These four sections must be spaced such that one section is along the corkline in the bunt, within 5 fathoms of the seine net, and the other three sections must be spaced at least 20 fathoms apart along the corkline within 75 fathoms of the bunt.

<u>AMENDATORY SECTION</u> (Amending Order 01-106, filed 6/15/01, effective 7/16/01)

WAC 220-47-311 Purse seine—Open periods. It is unlawful to take, fish for or possess salmon taken with purse seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for hereinafter in each respective Management and Catch Reporting Area:

				<u>7B:</u>	<u>6AM 9/10</u>	=	8PM 9/12
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<del>7,7A:</del>	6AM 5PM		<del>10/30</del>		7AM 9/22	<u>-</u>	8PM 10/26
	6AM 5PM		<del>11/5, 11/6, 11/7, 11/8</del>		7AM 10/28	=	4PM 11/1
	7AM 5PM		<del>11/12, 11/13, 11/14, 11/15</del>		7AM 11/4	=	4PM 11/8
Note: It is	unlawful to retain co	h <del>o salmon t</del>	aken with purse seine gear in-		7AM 11/12	<u>=</u>	4PM 11/15
Areas 7 and	<del>d 7A.</del>				7AM 11/18	=	4PM 11/22
<del>7B:</del>	6AM 9/10	-	8PM-9/12		7AM 11/25	<u>-</u>	4PM 11/29
	6AM-9/17	-	8PM 9/19		8AM 12/2	<u> </u>	4PM 12/6
	6AM 9/23	-	8PM-10/27	<u>8:</u>	6AM - 5PM		10/31, 11/1
	6AM-10/29	-	4 <del>PM 11/2</del>	_	7AM - 5PM		11/6, 11/7, 11/8, 11/13,
	6AM 11/5	-	4PM 11/9				<u>11/14, 11/15</u>
	6AM-11/12	-	4PM 11/16	<u>8A:</u>	<u>7AM - 6PM</u>		<u>10/21, 10/22</u>
	6AM 11/19	-	4PM-11/23		<u>6AM - 5PM</u>		<u>10/30, 10/31</u>
	6AM-11/26	_	4PM 11/30		7AM - 5PM		<u>11/4, 11/5</u>
	6AM 12/3	-	4PM-12/7		<u>7AM - 5PM</u>		<u>11/13, 11/14</u>
<del>8:</del>	<del>5AM_9PM</del>		<del>8/27, 8/28</del>		7AM - 5PM		<u>11/18, 11/19</u>
	6AM 5PM		<del>11/5</del>		7AM - 5PM		11/25, 11/26, 11/27
<del>8A:</del>	5AM - 9PM		8/21	<u>8D:</u>	<u>6AM - 5PM</u>		<u>10/30, 10/31</u>
Note: It is	unlawful to fish for	<del>pink salmon</del>	on August 21, 2001, south of		7AM - 5PM		<u>11/4, 11/5</u>
	the Mukilteo ferry d	ock to the C	linton ferry dock on Whidbey		7AM - 5PM		11/12, 11/13, 11/14, 11/15
Inland							

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Island.

<u>AREA</u>	<u>TIME</u>	<u>DATE</u>
	<u>7AM - 5PM</u>	11/18, 11/19, 11/20, 11/21,
		<u>11/22</u>
	<u>7AM - 5PM</u>	11/25, 11/26, 11/27, 11/29
<u> 10, 11:</u>	<u>7AM - 7PM</u>	<u>10/15</u>
	<u>7AM - 6PM</u>	<u>10/21</u>
	<u>6AM - 5PM</u>	10/28, 10/29
	<u>7AM - 5PM</u>	<u>11/4</u>
	<u>7AM - 5PM</u>	11/13
12, 12B:	7AM - 6PM	<u>10/21</u>
	<u>6AM - 5PM</u>	<u>10/29</u>
	7AM - 5PM	<u>11/4</u>
	7AM - 5PM	<u>11/13, 11/14</u>
	7AM - 5PM	11/18, 11/19
<u>12C:</u>	<u>7AM - 5PM</u>	11/13, 11/18

It is unlawful to retain chinook salmon taken with purse seine gear in Areas 7, 7A, 8, 8A, 8D, 10, 11, 12, 12B and 12C. It is unlawful to retain chum salmon taken with purse seine gear in Areas 7 and 7A prior to October 1. All other saltwater and freshwater areas - closed.

<u>AMENDATORY SECTION</u> (Amending Order 01-106, filed 6/15/01, effective 7/16/01)

WAC 220-47-401 Reef net open periods. It is unlawful to take, fish for or possess salmon taken with reef net gear for commercial purposes in Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the periods provided for hereinafter in each respective area:

AREA	TIME	-	DATE(S)
7,7A	7AM - 7PM Daily		(( <del>9/23 11/10</del> )) <u>9/22 - 11/16</u>

It is unlawful to retain chinook ((or wild coho)) salmon taken with reef net gear. It is unlawful to retain chum salmon taken with reef net gear prior to October 1 or wild coho prior to October 6. All other saltwater and freshwater areas closed.

<u>AMENDATORY SECTION</u> (Amending Order 01-106, filed 6/15/01, effective 7/16/01)

WAC 220-47-428 Beach seine—Open periods. It is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

((Beach seine closed in 2001.))

AREA TIME - DATE(S)

12A 7AM - 7PM Daily 8/26, 8/27, 8/28, 8/29, 8/30, 9/2, 9/3, 9/4, 9/5, 9/6, 9/9, 9/10, 9/11, 9/12, 9/13, 9/16, 9/17, 9/18, 9/19, 9/20, 9/23, 9/24, 9/25, 9/26, 9/27.

9/30, 10/1, 10/2, 10/3,

10/4

It is unlawful to retain chinook or chum taken with beach seine gear.

AMENDATORY SECTION (Amending Order 99-202, filed 11/19/99, effective 12/20/99)

WAC 220-47-430 Puget Sound commercial salmon—Log book required. It is unlawful for any licensed commercial salmon fisher fishing for salmon in Puget Sound SMCRAs 7 and 7A during the Fraser ((sockeye and pink salmon season set out in WAC 220-47-304)) Panel-controlled sockeye and pink salmon seasons promulgated by the National Marine Fisheries Service, or SMCRA 9A during the coho fishery set out in WAC 220-47-411, to fail to possess and maintain a department-approved Puget Sound Commercial Salmon Log Book as provided for in this section:

- (1) The log book must be kept aboard the vessel while it is fishing in SMCRAs 7 ((and)), 7A and 9A, or while in possession of fish caught in these areas. The fisher must submit the completed log book for inspection immediately upon request by authorized department representatives.
- (2) In each purse seine log book the fisher shall record the vessel name and license number. For each day fished, the fisher shall record the date. Immediately following each retrieval of the net the fisher shall record the Puget Sound Commercial Salmon Log Book Location Code, the time of the retrieval, and the number of chinook, coho and chum salmon in the net upon retrieval.
- (3) In each gill net log book the fisher shall record the vessel name and license number. For each day fished, the fisher shall record the date. Immediately following each retrieval of the net the vessel operator shall record the Puget Sound Commercial Salmon Log Book Location Code where the net is retrieved, the start and end time of the set((, and)) when fishing in SMCRA 7 and 7A the number of chinook, coho and chum salmon in the net upon retrieval must be recorded for each retrieval of the net. When fishing in SMCRA 9A the number of chinook and chum in the net upon retrieval must be recorded for each retrieval of the net.
- (4) The following are the Puget Sound Commercial Salmon Log Book Location Codes that are required entries in purse seine log books and gill net log books as provided for in this section:
- (a) Location Code 1: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7A northerly of a line projected from Birch Point to Savage Point on Tumbo Island.
- (b) Location Code 2: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7A southerly of a line projected from Birch Point to Savage Point on Tumbo Island.
- (c) Location Code 3: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7 easterly of a line projected true north from Orcas Island through the easternmost point on Matia Island to the intersection with the 7/7A boundary line and easterly of a line projected from Point Colville on Lopez Island to Smith Island.
- (d) Location Code 4: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7 westerly and northerly of a line projected from Point

[19] Expedited

((AREA

6D:

8D:

Colville on Lopez Island to Smith Island and thence to the Y B "VD" buoy on Beaumont Shoal (as listed on NOAA Chart 18421, ((\{\frac{1}{2}}\))38th ed., Oct. 31/92((\{\frac{1}{2}}\))) and southerly of a line projected from Cadboro Point on Vancouver Island 60 degrees true to the point of land on San Juan Island.

- (e) Location Code 5: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7 southerly of a line projected from Smith Island to the Y B "VD" buoy on Beaumont Shoal (as listed on NOAA Chart 18421, ((f))38th ed., Oct. 31/92((f))).
- (f) Location Code 6: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7 northerly of a line projected from Cadboro Point on Vancouver Island 60 degrees true to the point of land on San Juan Island and westerly of a line projected true north from Orcas Island through the easternmost point on Matia Island to the intersection with the 7/7A boundary line.
- (5) Location Code 7: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 9A southerly of a line projected true west from the shoreward end of the Port Gamble tribal dock on Point Julia to the mainland in the community of Port Gamble and those on-reserva-

7PM

TIME

7AM

tion waters of Hood Canal north of Port Gamble Bay to the marker at the north end of the Port Gamble Indian reservation.

(6) In each reef net log book the fisher shall record the fisher's name and license number and the location of the fishing site. For each day fished the fisher shall record the date and the total number of chinook, coho and chum salmon caught.

(((6))) (7) All log books used in SMCRA 7 and 7A must be sent to the department no later than October 10 of each year. All log books used in SMCRA 9A must be sent to the department no later than November 22 of each year.

AMENDATORY SECTION (Amending Order 01-106, filed 6/15/01, effective 7/16/01)

WAC 220-47-411 Gill net—Open periods. It is unlawful to take, fish for or possess salmon taken with gill net gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

DATE(S)	MINIMUM MESH
9/21, 9/24, 9/25, 9/26, 9/27, 9/28, 10/1, 10/2,	<del>5"</del>
10/3, 10/4, 10/5, 10/8, 10/9, 10/10, 10/11,	
10/12, 10/15, 10/16, 10/17, 10/18, 10/19, 10/22	<del>,</del>
<del>10/23, 10/24, 10/25, 10/26</del>	

Note: In Area 6D it is unlawful to use other than 5 inch minimum and 51/2 inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook or pink salmon taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any chinook or pink salmon captured as any time, or any chum salmon captured prior to October 16, must be removed from the net by cutting the meshes ensnaring fish.

<del>7, 7A:</del>	<del>7AM</del>	-	8PM	<del>10/29, 11/5, 11/6, 11/7, 11/8, 11/12, 11/13,</del> <del>11/14, 11/15</del>	<del>6 1/4"</del>
<del>7B:</del>	7PM	_	9AM	NIGHTLY 8/22, 8/27, 8/28, 9/3, 9/4	<del>7"</del>
	6AM-9/10	-	8PM 9/12		<del>5"</del>
	6AM-9/17	-	8PM 9/19		
	6AM-9/23	-	8PM 10/27		
	6AM-10/29	-	4 <del>PM 11/2</del>		6 1/4"
	6AM-11/5	-	4 <del>PM 11/9</del>		•
	6AM-11/12	-	4 <del>PM 11/16</del>		
	6AM-11/19	-	4PM 11/23		
	6AM-11/26	-	4 <del>PM-11/30</del>		
	6AM-12/3	-	4 <del>PM 12/7</del>		
<del>7C:</del>	<del>7PM</del>	-	9AM	NIGHTLY 8/22, 8/27, 8/28, 9/3, 9/4	<del>7"</del>
<del>8:</del>	6AM	-	11PM	<del>8/29, 8/30</del>	<del>5"</del>
	0 1				

Note: In Area 8 openings on August 28 and 29, it is unlawful to use other than 5 inch minimum and 5 1/2 inch maximum mesh, no greater than 60 meshes in depth.

	<del>7AM</del>	-	8PM	<del>11/6</del>	<del>6 1/4"</del>
<del>8A:</del>	6AM	-	11PM	<del>8/20, 8/28</del>	<del>5"</del>

Note: In Area 8A, on August 20, 2001, it is unlawful to fish for pink salmon south of a line drawn from the Mukilteo ferry dock to the Clinton ferry dock on Whidbey Island.

<del>7AM</del>	-	8PM	10/9, 10/16	<del>) "</del>
<del>7AM</del>	-	8PM	<del>10/24, 10/25</del>	<del>6 1/4"</del>
<del>7AM</del>	-	8PM	<del>10/29, 10/30</del>	
<del>7AM</del>	-	8PM	<del>11/7, 11/8</del>	
<del>7AM</del>	-	8PM	<del>11/12, 11/13</del>	
<del>7AM</del>	-	8PM	<del>11/19, 11/20</del>	
<del>7AM</del>	-	8PM	<del>11/26, 11/27, 11/28</del>	
6PM	-	<del>8AM</del>	<del>9/25, 9/26, 9/27</del>	<u>5"</u>

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			_	-	
((AREA	TIME	_		<del>DATE(S)</del>	MINIMUM MESH
((,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	6PM	_	8AM	<del>10/1, 10/2, 10/3</del>	
	6PM	_	8AM	<del>10/8, 10/9, 10/10, 10/11</del>	
	7AM	_	8PM	<del>10/16</del>	
	7AM	_	8PM	10/24. 10/25	
	7AM	_	8PM	<del>10/29, 10/30</del>	•
	7AM	_	8PM	<del>11/7, 11/8</del>	
	7AM	_	8PM	11/12.11/13	<del>6-1/4"</del>
	7AM	_	8PM	11/19, 11/20	
•	7AM	-	8PM	11/26, 11/27, 11/28	
9A:	6AM 9/16 through	h 8PM 10	-		<u>5"</u>
Note: It is unlawf	<del>ul to retain chum salm</del>			ber 1. Any chum salmon netted prior to October	l-must be released from the net by
cutting the meshes	ensnaring the fish.				
<del>10,11:</del>	<del>6PM</del>	-	8AM	10/15	<del>6 1/4"</del>
	<del>5PM</del>	-	8AM	<del>10/22</del>	
	. 4PM	-	8AM	<del>10/29, 10/30</del>	
	4PM	-	8AM	<del>11/5</del>	
	4 <del>PM</del>	-	8AM	11/12	
Note: During the	Area 10, 11 openings	<del>it is unlaw</del>	ful for fishers to fish wi	th gill net gear unless the fisher has registered in	writing on a department approved
		agrees to a		rver to be on board during each fishing trip to mo	
<del>12:</del>	7AM	-	8PM	<del>10/15</del>	<del>6-1/4"</del> <del>6-1/4"</del>
<del>12, 12B:</del>	7AM	-	8PM	<del>10/23</del>	<del>0 1/4 -</del>
	7AM	-	8PM	<del>10/29</del>	
	7AM	-	8PM	11/7, 11/8	
	7AM	-	8PM	<del>11/12</del>	<del>6-1/4"</del>
<del>12C:</del>	<del>7AM</del>	-	<del>8PM</del>	<del>11/12</del>	<del>0 1/4 -</del>
All other saltwate	r and freshwater areas				
	Nightly openings			ains in effect from the first date indicated until a :	mech size change is shown and the
•			emains in effect until ch		mesn-size change is shown, and the
	new mesh size re	Surction re	many in circle and the	angou.	
<u>AREA</u>	TIME	=		DATE(S)	MINIMUM MESH
<u>6D:</u>	<u>7AM</u>	=	<u>7PM</u>	9/23, 9/24, 9/25, 9/26, 9/27, 9/30, 10/1, 10/2	<u>5"</u>
				10/3, 10/4, 10/7, 10/8, 10/9, 10/10, 10/11, 10/14, 10/15, 10/16, 10/17, 10/18, 10/21, 10/2	22
				10/23, 10/24, 10/25	
Note: In Area 6D	it is unlawful to use of	ther than 5	inch minimum and 5 1/	2-inch maximum mesh in the skiff gill net fishery	. It is unlawful to retain chinook or
pink salmon taker	in Area 6D at any tim	ne, or any o	hum salmon taken in A	rea 6D prior to October 16. In Area 6D, any chine	ook, chum or pink salmon required
			itting the meshes ensnar		
<u>7.7A:</u>	<u>7AM</u>	=	<u>8PM</u>	<u>10/21</u>	<u>6 1/4"</u>
	<u>7AM</u>	=	<u>7PM</u>	10/29	<u>6 1/4"</u>
<u>7B/7C:</u>	<u>7PM</u>	<u> </u>	<u>8AM</u>	NIGHTLY 8/22, 8/28, 8/29, 9/4, 9/5	. <u>7"</u>
<u>7B:</u>	6AM 9/10	=	8PM 9/12		<u>5"</u>
	6AM 9/17	÷	8PM 9/19	•	
	7AM 9/22	Ξ	8PM 10/26		
	7AM 10/28	=	4PM 11/1		<u>6 1/4"</u>
	7AM 11/4	٤	4PM 11/8		
	7AM 11/12	٤	4PM 11/15		
	7AM 11/18	=	4PM 11/22		
	7AM 11/25	=	4PM 11/29		
	8AM 12/2	=	4PM 12/6		
<u>8:</u>	<u>7AM</u>	=	<u>7PM</u>	10/31, 11/1, 11/6, 11/7, 11/8, 11/13, 11/14, 11/15	<u>6 1/4"</u>
84.	<u>7AM</u>	Ξ	<u>8PM</u>	10/23, 10/24	<u>6 1/4"</u>
<u>8A:</u>	7AM 7AM	<u>-</u>	<u>7PM</u>	10/28, 10/29	<del></del>
<b>\</b>	7AM 7AM	=	7 <u>PM</u>	11/6, 11/7, 11/12, 11/13	
1					
•					
8D:	7AM 7AM 7AM	<u>-</u> -	6PM 7PM	11/20, 11/21, 11/25, 11/26, 11/27 10/28, 10/29, 11/6, 11/7	<u>5"</u>

<u>AREA</u>	<u>TIME</u>	=		DATE(S)	MINIMUM MESH
	<u>7AM</u>	<u>=</u>	<u>7PM</u>	11/12, 11/13, 11/14, 11/15	<u>6 1/4"</u>
	<u>7AM</u>	Ξ	<u>6PM</u>	11/18, 11/19, 11/20, 11/21, 11/22, 1	<u>1/25, 11/26, </u>
				<u>11/27, 11/29</u>	
<u>9A:</u>	<u>6AM 9/1</u>	=	<u>4PM 11/2</u>		<u>5"</u>
Note: It is unlawf	ul to retain chum salr	mon taken ir	Area 9A prior to	October 1. Any chum salmon netted prior to	October 1 must be released from the net by
cutting the meshe	s ensnaring the fish.	Logbooks re	equired in accorda	ance with WAC 220-47-430.	
<u>10, 11:</u>	<u>5PM</u>	=	<u>8AM</u>	<u>10/22</u>	<u>6 1/4"</u> ,
	<u>4PM</u>	=	<u>8AM</u>	<u>10/27, 10/28, 11/5, 11/12</u>	
<u>12, 12B:</u>	<u>7AM</u>	<u>-</u>	<u>8PM</u>	<u>10/22</u>	<u>6 1/4"</u>
	<u>7AM</u>	=	<u>7PM</u>	10/28, 11/5, 11/12, 11/13	
	<u>7AM</u>	=	<u>6PM</u>	<u>11/19, 11/20</u>	
<u>12C:</u>	<u>7AM</u>	=	<u>7PM</u>	<u>11/12</u>	<u>6 1/4"</u>
	<u>7AM</u>	Ξ	<u>6PM</u>	<u>11/19</u>	

All other saltwater and freshwater areas - closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

#### WSR 02-11-152 EXPEDITED RULES DEPARTMENT OF HEALTH

(Pharmacy)

[Filed May 22, 2002, 11:38 a.m.]

Title of Rule: Chapter 246-889 WAC, Pharmaceutical precursor substance control.

Purpose: The proposed amendment to the rule will add the drug, gamma-butyrolactone (GBL), to the list of precursor substances in WAC 246-889-020 to make state law consistent with federal law.

Statutory Authority for Adoption: RCW 69.43.050, 18.64.005.

Statute Being Implemented: RCW 69.43.050.

Summary: On February 18, 2000, federal legislation was enacted to control gamma-butyrolactone (GBL). As a result of this law, GBL became a list I chemical under federal law. The proposed amendment will place GBL in the listing of precursor substances to be consistent with federal law.

Reasons Supporting Proposal: GBL was being abused by high school and college students at "rave parties," by body-builders for its alleged anabolic effects, and in cases of sexual assault.

Name of Agency Personnel Responsible for Drafting and Implementation: Lisa Salmi, 1300 Quince Street S.E., P.O. Box 47863, Olympia, 98504, (360) 236-4828; and Enforcement: Donald H. Williams, 1300 Quince Street S.E., P.O. Box 47863, Olympia, 98504, (360) 236-4825.

Name of Proponent: Department of Health, Washington State Board of Pharmacy, 1300 Quince Street S.E., P.O. Box 47863, Olympia, WA 98504-7863, governmental.

Rule is necessary because of federal law, 21 C.F.R. Part 1310.

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 246-889 WAC, Pharmaceutical—Precursor substance control, regulates the distribution of precursor drugs. Precursor drugs are those drugs that are used to man-

ufacture controlled substances. It is necessary to control the manufacture and distribution of precursor substances to prevent, curtail, or limit the manufacturing of controlled substances. Controlled substances are those substances that have a high potential for abuse an a high degree of psychic or physical dependence. In order to protect the health and safety of the public, these drugs must be strictly regulated.

Proposal Changes the Following Existing Rules: Updates rule to include gamma-butyrolactone (GBL) in the list of precursor substances to be consistent with federal rules.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lisa A. Salmi, Department of Health, Washington State Board of Pharmacy, 1300 Quince Street S.E., P.O. Box 47863, Olympia, WA 98504-7863, AND RECEIVED BY July 23, 2002.

April 23, 2002 D. H. Williams Executive Director

AMENDATORY SECTION (Amending WSR 94-07-105, filed 3/18/94, effective 3/18/94)

WAC 246-889-020 Precursor substance defined. (1) For the purpose of this chapter a precursor substance is any of the following substances or their salts or isomers:

- (a) Anthranilic acid;
- (b) Barbituric acid;

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- (c) Chlorephedrine;
- (d) Diethyl malonate;
- (e) D-lysergic acid;
- (f) Ephedrine;
- (g) Ergotamine tartrate;
- (h) Ethylamine;
- (i) Ethyl malonate;
- (j) Ethylephedrine;
- (k) Gamma-butyrolactone (GBL);
- (1) Hydriodic acid;
- (((H))) (m) Lead acetate;
- (((m))) (n) Malonic acid;
- (((n))) (o) Methylamine;
- (((o))) (p) Methylformamide;
- (((p))) (a) Methylephedrine;
- (((q))) (r) Methylpseudoephedrine;
- (((r))) (s) N-acetylanthranilic acid;
- (((s))) (t) Norpseudoephedrine;
- (((t))) (u) Phenylacetic acid;
- (((u))) (v) Phenylpropanolamine;
- (((v))) (w) Piperidine;
- (((w))) (x) Pseudoephedrine; and
- (((x))) (y) Pyrrolidine.

Provided; that this definition shall not include any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine or any cosmetic if that drug or cosmetic can be lawfully sold, transferred, or furnished over-the-counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

- (2) The board finds that the reference to methylformanide in RCW 69.43.010, was intended to refer to methylformamide and corrects that reference by deleting "methylformanide" and adding "methylformamide." This change is based upon the finding that this revision conforms to the tests set forth in RCW 69.43.010(2).
- (3) Registrants should be aware that precursor substances in subsection (1)(a), (f), (k), (l), (n), (o), (p), (t), and (w) of this section are also regulated as schedule II immediate precursors pursuant to WAC 246-887-150 and all applicable rules and laws governing the distribution of schedule II controlled substances must also be complied with.



# WSR 02-09-039 PERMANENT RULES OLYMPIC AIR POLLUTION CONTROL AUTHORITY

[Filed April 11, 2002, 3:21 p.m.]

Date of Adoption: April 10, 2002.

Purpose: To amend sections of the OAPCA regulation to address programmatic issues between the state and local implementations of New Source Review.

Citation of Existing Rules Affected by this Order: Amending OAPCA Regulation 1, Articles 1 and 7.

Statutory Authority for Adoption: Chapter 70.94 RCW. Adopted under notice filed as WSR 02-05-047 on February 14, 2002.

Changes Other than Editing from Proposed to Adopted Version: There are a number of changes, other than editing, from the February 14, 2002, proposed rule amendments to the April 2002 adopted version of OAPCA Regulation 1, Articles 1 and 7. The changes are:

- Removed definitions for "adverse impact on visibility,"
   "director," "integral vista," "mandatory class I federal
   area," "nonattainment area," "significant visibility
   impairment," and "visibility impairment of Class I
   areas" as these terms are not used in OAPCA's rule.
- Clarified and revised the meaning of the definitions for "commenced construction," "particulate matter emissions," "visibility impairment," and "volatile organic compound."
- Added definitions for "federal class I areas" and "nonroad engine" as they are used in new sections. Definition consistent with state rule.
- Revised the meaning of the definitions of "major modification," "major source," "net emissions increase," and "significant" and moved to Section 7.17, as these definitions only apply to this section.
- Revised Section 7.17(a) (now subpart (b)) to reinforce that this section applies to modifications.
- Revised Section 7.17 (a)(7) (now subpart (b)(7)) and Section 7.18 (a)(4) to require the project to receive a PSD permit (if applicable) before OAPCA issues approval.
- Revised Section 7.20(a) to clarify that it only applies to orders issued by the Authority.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 5, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 10, 2002 Richard Stedman Executive Director

#### **SECTION 1.07 DEFINITIONS**

When used in regulations of the Olympic Air Pollution Control Authority, the following definitions shall apply, unless they are preempted by definitions in individual Articles:

ACTUAL EMISSIONS means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.

- (a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a one year period which precedes the particular date and which is representative of normal source operation. The Authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
- (b) The Authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.
- (c) For an emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

ADVERSE IMPACT ON VISIBILITY-means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor visual experience of the Federal Class I area. This determination must be made on a case by case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

AGRICULTURAL BURNING means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

AGRICULTURAL OPERATION means the growing of crops, the raising of fowl or animals as gainful occupation.

AIR CONTAMINANT means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

AIR POLLUTION means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, property, or which unreasonably interferes with enjoyment of life and property. For the purpose of this Regulation, air pollution shall not include air contaminants emitted in compliance

with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

AIR POLLUTION EPISODE means a period when a forecast, alert, warning, or emergency air pollution state is declared, as stated in Chapter 173-435 WAC.

ALLOWABLE EMISSIONS means the emission rate calculated using the maximum rated capacity of the source (unless the stationary source is subject to limits enforceable by the Authority which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (a) The applicable standards as set forth in 40 CFR part 60 or 61:
- (b) Any applicable state implementation plan emissions limitation including those with a future compliance date; or;
- (c) The emissions rate specified in an approval order, permit condition, or regulatory order issued by the Authority including those with a future compliance date.

ALTERATION means any addition to or enlargement or replacement; or any major modification or change of the design, capacity, process or arrangement; or any increase in the connected loading of equipment or control facility which will significantly increase or adversely affect the kind or amount of air contaminant emitted.

AMBIENT AIR means that portion of the atmosphere external to a building to which the general public has access.

AMBIENT AIR QUALITY STANDARD means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

ANCILLARY for the purpose of defining "source," means "related."

ATTAINMENT AREA means a geographic area designated by EPA at 40 CFR Part 81 as having attained the National Ambient Air Quality Standard for a given criteria pollutant.

AUTHORITY means the Olympic Air Pollution Control Authority.

AUTHORIZED PERMITTING AGENT means either the county, county fire marshall, fire districts, or county conservation district, provided an agreement has been signed with the local air pollution control authority or Department of Ecology.

BEST AVAILABLE CONTROL TECHNOLOGY (BACT) means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each air pollutant subject to this regulation which would be emitted from any proposed new or modified source which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such sources or modification through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air pollutant. In no event shall application of the best available technology result in emissions of any air pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the reviewing authority determines that technological or economic limitations on the application of the imposition of an emission standard is infeasible, it may instead prescribe a

design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of BACT. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The term "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.

BEST AVAILABLE RETROFIT TECHNOLOGY (BART) means any emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing source. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

BOARD means the Board of Directors of the Olympic Air Pollution Control Authority.

BUBBLE means a set of emission limits which allows an increase in emissions from a given emissions unit(s) in exchange for a decrease in emissions from another emissions unit(s), pursuant to RCW 70.94.155 and WAC 173-400-120.

CAPACITY FACTOR means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

CLASS I AREA means any area designated pursuant to § 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

Alpine Lakes Wilderness;

Glacier Peak Wilderness;

Goat Rocks Wilderness;

Mount Adams Wilderness;

Mount Rainier National Park;

North Cascades National Park;

Olympic National Park;

[2]

Pasayten Wilderness; and,

Spokane Indian Reservation.

COMBUSTIBLE REFUSE means any burnable waste material containing carbon in a free or combined state other than liquid or gases.

COMBUSTION AND INCINERATION UNITS means units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

COMMENCED, as applied to CONSTRUCTION, means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonably time; or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

For the purposes of this definition, "necessary preconstruction approvals" means those permits or orders of approval required under federal air quality control laws and regulations, including state, local, and federal regulations and orders contained in the SIP.

CONCEALMENT means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

CONTROL APPARATUS means any device which prevents or controls the emission of any air contaminant.

CONTROL OFFICER means the Air Pollution Control Officer of the Olympic Air Pollution Control Authority. Executive Director means the same as Control Officer.

CRITERIA POLLUTANT means a pollutant for which there is established a National Ambient Air Quality Standard at 40 CFR Part 50. The criteria pollutants are carbon dioxide (CO), particulate matter, ozone (O3), sulfur dioxide (SO2), lead (Pb), and nitrogen dioxide (NO2).

DAYLIGHT HOURS means the hours between official sunrise and official sunset.

DIRECTOR—means director of the Washington State Department of Ecology or duly authorized representative.

DISPERSION TECHNIQUE means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.

ECOLOGY means the Washington State Department of Ecology.

EMISSION means a release of air contaminants into the ambient air.

EMISSION LIMITATION <u>or EMISSION STANDARD</u> means requirement established by the EPA, Ecology, or the Authority which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

EMISSION POINT means the location (place in horizontal plane and vertical elevation) at which an emission enters the atmosphere.

EMISSION REDUCTION CREDIT (ERC) means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

EMISSION UNIT means any part of a source or a stationary source which emits or would have the potential to emit any pollutant subject to regulation.

EPA means the United States Environmental Protection Agency (USEPA).

EQUIPMENT means any stationary or portable device, or any part thereof, capable of causing the emission of any air contaminant into the atmosphere.

EXCESS EMISSION means emissions of an air pollutant in excess of an emission standard or emission limitation.

EXCESS STACK HEIGHT means that portion of a stack which exceeds the greater of sixty five meters or the calculated stack height described in WAC 173-400-200(2).

FACILITY is defined as all emission units in the same industrial grouping located on contiguous or adjacent properties and under common ownership of control.

FEDERAL CLASS I AREA means any federal land that is classified or reclassified Class I. The following areas are federal Class I areas in Washington state:

Alpine Lakes Wilderness;

Glacier Peak Wilderness;

Goat Rocks Wilderness;

Mount Adams Wilderness;

Mount Rainier National Park;

North Cascades National Park;

Olympic National Park; and

Pasayten Wilderness.

FEDERAL CLEAN AIR ACT (FCAA) means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. & 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

FEDERALLY ENFORCEABLE means all limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60 and 61, requirements within any established under 40 CFR 52.21 or under a SIP approved new source review regulation, including operating permits issued under chapter 173-401 WAC and expressly requires adherence to any permit issued under these programs.

FEDERAL LAND MANAGER means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

FOSSIL FUEL FIRED STEAM GENERATOR means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

FUEL BURNING EQUIPMENT means any equipment, device or contrivance used for the burning of any fuel, and all appurtenances thereto, including ducts, breechings, control equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substances to the products of combustion.

FUGITIVE DUST means a particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

FUGITIVE EMISSIONS means emissions which do not pass, and which could not reasonably pass, through a stack, chimney, vent, or other functionally equivalent opening.

GARBAGE means refuse, animal or vegetable matter as from a kitchen, restaurant or store.

GENERAL PROCESS UNIT means an emissions unit using a procedure or combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

GENERATING EQUIPMENT means any equipment, device, process or system that creates any air contaminant(s) or toxic air pollutant(s).

GOOD ENGINEERING PRACTICE (GEP) refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

HOG-FUEL means wood slabs, edging, trimmings, etc., which have been put through a "hog" to reduce them to a uniform small size, and also includes shavings from planing mills, sawdust from saw-kerfs, bits of bark, chips and other small recovered products from the manufacture of wood products or any combination thereof.

IDENTICAL UNITS means units installed and operated in a similar manner on the same premises provided the materials handled, processed, or burned are substantially the same in composition and quantity and their design, mode of operation, connected devices and types and quantities of discharge are substantially the same.

IMPAIRED AIR QUALITY means a condition declared by the department or a local air authority in accordance with the following criteria:

- (a) Meteorological conditions are conducive to accumulation of air contamination concurrent with:
- (1) Particulate that is ten micron and smaller in diameter (PM-10) at or above an ambient level of sixty (60) micrograms per cubic meter measured on a twenty-four-hour average; or
- (2) Carbon monoxide at an ambient level of eight parts of contaminant per million parts of air by volume (ppm) measured on an eight-hour average.
- (b) Air quality that threatens to exceed other limits established by the department or a local air authority.

INCINERATOR means a furnace used primarily for the thermal destruction of waste.

IN OPERATION means engaged in activity related to the primary design function of the source.

INTEGRAL VISTA means a view perceived from within a mandatory Class I federal area of a specific landmark or panorama located outside the boundary of the Class I area.

LIDAR (Light Detection and Ranging) means the EPA alternate method 1 determination of the opacity of emissions from stationary sources remotely by lidar.

LOWEST ACHIEVABLE EMISSION RATE (LAER) means for any source that rate of emissions which reflects the more stringent of:

- (a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or
- (b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

MAJOR MODIFICATION means any physical change, or change in the method of operation, of a major source that would result in a significant net emissions increase of any pollutant subject to regulation under the Federal Clean Air act. Any net emissions increase that is considered significant for volatile organic compounds and nitrogen oxides shall be

considered significant for ozone. A physical change or change in the method of operation shall not include:

- (a) Routine maintenance, repair, and replacement;
- (b) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
- (c) Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425;
- (d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste:
- (e) Use of an alternative fuel or raw material by a source which:
- (1) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, in a Prevention of Significant Deterioration permit or Notice of Construction Approval; or
- (2) the source is approved to use under any permit issued under regulations approved pursuant to this section;
- (f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 in a Prevention of Significant Deterioration permit or a Notice of Construction Approval.
  - (g) Any change in ownership of a source.
- (h) The addition, replacement, or use of a pollution control project (as defined in 40 CFR 51.166, in effect on July 1, 2001) at an existing electric utility steam generating unit, unless the permitting agency determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:
- (1) When the permitting agency has reason to believe that the pollution control project would result in a significant net emissions increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of title I of the Federal Clean Air Act, if any; and
- (2) The permitting agency determines that the increase will cause or contribute to a violation of any National Ambient Air Quality Standard or PSD increment, or visibility limitation.
- (i) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with the SIP, and other requirements necessary to attain and maintain the National Ambient Air Quality Standard during the project and after it is terminated.

MAJOR SOURCE-means:

- (a) Any source which:
- (1) Emits or has the potential to emit one hundred tons per year or more of any air contaminant regulated by the state or Federal Clean Air Act;

- (2) Is located in a "marginal" or "moderate" ozone nonattainment area and which emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen;
- (3) Is located in a "serious" carbon monoxide nonattainment area where sources contribute significantly to carbon monoxide levels and which emits or has the potential to emit fifty tons per year or more of carbon monoxide; or
- (4) Is located in a "serious" particulate matter (PM-10) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM-10 emissions.
- (5) Emits or has the potential to emit 10 tons or more per year of any toxic air pollutant or 25 tons per year of any combination of toxic air pollutants.
- (b) Any physical change that would occur at a source not qualifying under (a) of this subsection as a major source; if the change would constitute a major source by itself;
- (e) A major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone:
- (d) The fugitive emissions of a source shall not be included in determining for any of the purposes of this section whether it is a major source, unless the source belongs to one of the following categories of sources or the source is a major source solely due to paragraphs (a)(3) or (a)(4) of this subsection:
  - (1) Coal cleaning plants (with thermal dryers);
  - (2) Kraft pulp mills;
  - (3) Portland cements plants;
  - (4) Primary zine smelters;
  - (5) Iron and steel mills;
  - (6) Primary aluminum ore reduction plants;
  - (7) Primary copper smelters;
- (8) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
  - (9) Hydrofluorie, sulfurie, or nitric acid plants;
  - (10) Petroleum refineries;
  - (11) Lime plants;
  - (12) Phosphate rock processing plants;
  - (13) Coke oven batteries;
  - (14) Sulfur recovery plants;
  - (15) Carbon black plants (furnace process);
  - (16) Primary lead smelters;
  - (17) Fuel conversion plants;
  - (18) Sintering plants;
  - (19) Secondary-metal production plants;
  - (20) Chemical process plants;
- (21) Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;
- (22) Petroleum-storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
  - (23) Taconite ore processing plants;
  - (24) Glass fiber processing plants;
  - (25) Charcoal production plants;
- (26) Fossil fuel fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; and

(27) Any other stationary source category which, as of August 7, 1980, was being regulated under sections 111 or 112 of the Federal Clean Air Act.

MANDATORY CLASS I FEDERAL AREA means any area defined in § of the FCAA, Subpart D as amended through the adoption date of this rule. The mandatory Class I federal areas in Washington state are as follows:

Alpine Lakes-Wilderness;

Glacier Peak Wilderness;

Goat Rocks Wilderness;

Mount Adams Wilderness:

Mount Rainier National Park;

North Cascades National Park:

Olympic National Park;

Pasayten Wilderness.

MASKING means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

MATERIALS HANDLING means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

MODIFICATION means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such sources or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) means an ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O3), sulfur dioxide (SO2), lead (Pb), and nitrogen dioxide (NO2).

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) means the federal regulations set forth in 40 CFR Part 61.

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES means the federal rules in 40 CFR Part 63.

NATURAL CONDITIONS means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

**NET EMISSIONS INCREASE means:** 

- (a) The amount by which the sum of the following exceeds zero:
- (1) Any increase in actual emissions from a particular change or change in method of operation at a source; and
- (2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
- (b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.
- (c) An increase or decrease in actual emissions is creditable only if:
- (1) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emis-

sion reduction credit, in which ease the credit shall expire ten years after the date of original issue of the ERC. Any emissions increases occurring over the life of the ERC shall be counted against the ERC.

- (2) Ecology or the Authority has not relied on it in issuing an order of approval for the source under regulations approved pursuant to CFR Part 51, Subpart I or the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21 which the order or permit is in effect when the increase in actual emissions from the particular change occurs.
- (d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- (e) A decrease in actual emissions is creditable only to the extent that:
- (1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions:
- (2) It is federally enforceable at and after the time that actual construction on the particular change begins;
- (3) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
- (4) Ecology or the Authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 51 Subpart I or Ecology or the Authority has not relied on it in demonstrating attainment or reasonable further progress.
- (f) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

NEW SOURCE means:

- (a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted; and
- (b) Any other project that constitutes a new source under the Federal Clean Air Act.

NEW SOURCE PERFORMANCE STANDARDS (NSPS) means the federal regulations set forth in 40 CFR Part 60.

NONATTAINMENT AREA means a elearly delineated geographic area which has been designated by EPA at 40 CFR Part 81 and promulgated as exceeding a national ambient air quality standard for a given or standards for one or more of the criteria pollutant. s, which includes earbon monoxide, fine particulate matter (PM 10) sulfur dioxide, ozone, and nitrogen dioxide. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

#### **NONROAD ENGINE means**

- (a) Except as discussed in (b) of this subsection, a non-road engine is any internal combustion engine:
- (1) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers; or

- (2) <u>In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers</u> and string trimmers); or
- (3) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Incidia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.
- (b) An internal combustion engine is not a nonroad engine if:
- (1) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or
- (2) The engine is regulated by a New Source Performance Standard promulgated under section 111 of the Federal Clean Air Act; or
- (3) The engine otherwise included in (a)(3) of this subsection remains or will remain at a location for more than twelve consecutive months or a short period of a time for an engine located at a seasonal source. A location is a single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

NOTICE OF CONSTRUCTION APPLICATION means a written application to permit construction of a new source, modification of an existing source, or replacement or substantial alteration of control technology at an existing source. Replacement or substantial alteration of control technology does not include routine maintenance, repair, or parts replacement.

NUISANCE means an emission that unreasonably interferes with the use and enjoyment of property.

OPACITY means the degree to which an object seen through a plume is obscured, stated as a percentage.

OPEN BURNING means the combustion of material in an open fire or in an open container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

OPEN FIRE means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator or kiln.

ORDER OF APPROVAL OR APPROVAL ORDER means a regulatory order issued by Ecology or the Authority to approve the Notice of Construction Application for a proposed new source or modification or the replacement or substantial alteration of control technology at an existing stationary source, after review of all information received including public comment as required under Article 5 and Article 7.

OWNER means and includes the person who owns, leases, supervises or operates the equipment or control apparatus.

PARTICULATE MATTER OR PARTICULATES means any liquid, other than water, or any solid, which is so finely divided as to be capable of becoming windblown or being suspended in air, or other gas or vapor.

particulate matter emissions means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by a preapproved method by the Authority. applicable reference methods, or an equivalent or alternative method specified in Title 40, chapter I of the Code of Federal Regulations or by a test method specified in the SIP.

PARTS PER MILLION (ppm) means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

PERMIT means a written warrant or license granted by the Board, Control Officer, or duly authorized Representative or Agent.

PERSON means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

PM<sub>10</sub> means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM<sub>10</sub> EMISSIONS means finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the Washington State Implementation Plan (SIP).

POTENTIAL CONTROLLED EMISSIONS means the emissions from a facility determined as if the facility was operated at maximum capacity, 8,760 hours per year with control equipment operating. Operating control equipment can be considered only if the affect such controls have on emissions is federally enforceable.

POTENTIAL TO EMIT means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a source.

POTENTIAL UNCONTROLLED EMISSIONS means the emissions from a facility determined as if the facility was operated at maximum capacity, 8,760 hours per year with control equipment NOT operating.

PREVENTION OF SIGNIFICANT DETERIORATION (PSD) means the program set forth in WAC 173-400-141. Ecology has adopted the federal PSD program contained in 40 CFR 52.21 with some changes, which are described in WAC 173-400-141.

PROCESS means any equipment, device apparatus, chemical, natural element, procedure, effort, or any combination thereof which performs a service, function, use, or method, leading to an end of a particular performance, or manufacturing production.

PROJECTED WIDTH means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

REASONABLE ALTERNATIVES means disposal alternatives to open burning that cost less than eight dollars fifty cents per cubic yard. After July 1993, this amount shall be adjusted periodically by department policy.

REASONABLY ATTRIBUTABLE means attributable by visual observation or any other technique the Authority deems appropriate.

REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by quality, and the capital and operating costs of the additional controls. RACT requirements for any source category shall be adopted only after notice and opportunity for comment are afforded.

RECREATIONAL FIRE means barbecues and campfires, using charcoal, natural gas, propane, or natural wood, which occur in designated areas, or on private property. Fires used for debris disposal purposes are not considered recreational fires.

REFUSE means waste as defined in Section 1.07 of this Regulation.

REGULATION 1 means any regulation, or any subsequently adopted additions or amendments thereto, of the Olympic Air Pollution Control Authority.

REGULATORY ORDER means an order issued by Ecology or the Authority to an air contaminant source which approves a notice of construction application, limits emissions and/or establishes other air pollution control requirements.

REPRESENTATIVE or AGENT means any person authorized by the Control Officer of the Authority to represent him in an official and specific manner.

RESIDENTIAL means a two or single family unit.

RUBBISH means waste as defined in Section 1.07 of the Regulation.

SALVAGE OPERATION means any operation conducted in whole or in part for the salvaging or reclaiming of any product.

SIGNIFICANT means a rate of emissions equal to or greater than any one of the following rates:

Pollutant	Tons/Year
Carbon monoxide	100
Nitrogen oxides	<del>40</del>
Sulfur dioxide	40
Particulate matter (PM)	<del>25</del>

Fine particulate matter (PM-10)	<del>15</del>
Volatile organic compounds (VOC)	<del>40</del>
Lead	<del>0.6</del>
Fluorides	3
Sulfuric acid mist	7
Hydrogen sulfide (H <sub>2</sub> S)	<del>10</del>
Total reduced sulfur (including H <sub>2</sub> S)	<del>10</del>
Reduced Sulfur compounds (including H <sub>2</sub> S)	<del>10</del>
Municipal waste combustor organics	0.0000035
(measured as total tetra through octa chlorinated dibenzo-p-dioxins and dibenzo-furans)	
- · · · · · · · · · · · · · · · · · · ·	1.5
Municipal waste combustor metals (measured as PM)	<del>15</del>
Municipal waste combustor acid gases (mea-	40
sured as SO₂ and hydrogen chloride)	

SIGNIFICANT VISIBILITY IMPAIRMENT means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case by case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

SILVICULTURAL BURNING means burning on any land the Department of Natural Resources protects per RCW 70.94.030(13), 70.94.660, 70.94.690, and pursuant to Chapter 76.04 RCW.

SOURCE means all of the emissions unit(s) and all of the pollutant emitting activities which belong to the same industrial grouping, including quantifiable fugitive emissions, that are located on one or more contiguous properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

SOURCE CATEGORY means all sources of the same type or classification.

STACK means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

STACK HEIGHT means the height of an emission point measured from the ground level elevation at the base of the stack.

STANDARD CONDITIONS means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 inches) of mercury.

STANDARD CUBIC FOOT OF GAS means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at standard conditions.

STATE ACT means the Washington Clean Air Act, Chapter 70.94 RCW, as amended.

STATE IMPLEMENTATION PLAN (SIP) means the Washington SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local and federal regulations and orders, the state plan and compliance schedules approved and promulgated by EPA, for the purpose of implementing, maintaining, and enforcing the National Ambient Air Quality Standards.

STATIONARY SOURCE means any source as defined in this section which is fixed in location temporarily or permanently. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the FCAA.

SULFURIC ACID PLANT means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

TEMPORARY means a period of time not to exceed one (1) year.

TOTAL REDUCED SULFUR (TRS) means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 or an approved equivalent method and expressed as hydrogen sulfide.

TOTAL SUSPENDED PARTICULATE means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1988.

TOXIC AIR POLLUTANT(S) (TAP) means any class A or Class B toxic air pollutant listed in WAC 173-460-150 and/or WAC 173-460-160.

UNCLASSIFIABLE AREA means an area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant and that is listed by EPA at 40 CFR Part 81.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA) shall be referred to as EPA.

URBAN GROWTH AREA means an area defined by RCW 36.70A.030.

VENT means any opening through which gaseous emissions are exhausted into the ambient air.

VISIBILITY IMPAIRMENT means any <u>humanly</u> perceptible <u>change degradation</u> in visibility (<u>light extinction</u>, visual range, contrast, <u>or</u> coloration) <u>from that which would have existed under not caused by natural conditions.</u>

VISIBILITY IMPAIRMENT OF CLASS I AREAS means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

VOLATILE ORGANIC COMPOUND (VOC) means <u>any compound that participates in atmospheric photochemical reactions</u>:

(a) Exceptions. The following compounds are not a VOC: acetone; Any compound of earbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonates, which participates in atmospheric photochemical reactions. This includes any organic compound other than the following, which have negligible photochemical activity: Mmethane; ethane, methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,½-trichloro 21,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodiflu-

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oromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,1,2-trichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1.1.1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HCFC-134a124); 1,1-dichloro 1-fluorethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroetheylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); diflouromethane (HFC-32); ethylflouride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentaflouropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentaflouropropane (HFC-245fa); 1,1,1,2,3,3hexaflouropropane (HFC-236ea); 1,1,1,3,3-pentaflourobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4methoxy-butane (C<sub>4</sub>F<sub>6</sub>OCH<sub>3</sub>); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OCH<sub>3</sub>); 1ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ( $C_4F_9OC_2H_5$ ); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane  $((CF_3)_2CFCF_2OC_2H_5)$ ; methyl acetate and perfluorocarbon compounds which fall into these classes:

- (1) Cyclic, branched, or linear completely fluorinated alkanes;
- (2) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; and
- (3) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and
- (4) (3) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- (b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Authority.
- (c) As a precondition to excluding these negligibly reactive compounds as VOC or at any time thereafter, Ecology or the Authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of Ecology or the Authority, the amount of negligibly reactive compounds in the source's emissions.

WASTE means unproductive, worthless, useless or rejected material.

WASTE-WOOD BURNER means equipment or facility used solely for the combustion-disposal of waste wood without heat recovery. Such burners shall include, but not be limited to, a wigwam burner, a silo-type burner, or an air-curtain burner.

WIGWAM or TEPEE BURNER - see Waste-wood Burner.

#### SECTION 7.05 ISSUANCE OF APPROVAL ORDER

- (a) As soon as practicable after receipt of Notice of Construction and Application-for Approval, and, if public noticing is required pursuant to Section 7.04, after consideration of any comments and testimony received, t Following the timeline in Section 7.21, Tthe Authority Board or Control Officer shall issue either:
  - (1) an Approval Order for the proposed project or
- (2) an Order to Deny Approval (if an Order that the construction, installation or establishment of a new air contaminant source will not be in accordance with the applicable federal, state, and local requirements with the applicable emissions standards as that are in effect at the time of filing the Notice of Construction and Application for Approval). Failure to comply with any term or condition of an Approval Order constitutes a violation of this section and is subject to penalties pursuant to RCW 70.94.430 and RCW 70.94.431.
- (b) No approval will be issued unless, upon the information required by Section 7.01 and 7.03 evidences to the Control Officer or the Board that:
- (1) The equipment or control apparatus is designed and will be installed to operate without causing violation of any law or regulation of the Authority.
- (2) Upon request of the Control Officer or Board, equipment or control apparatus having a stack three (3) feet or more in diameter is provided with:
- (i) (1) Sampling ports of a size, number and location as the Authority may require; and
  - (ii) (2) Safe access to each port; and
- (iii) (3) Such other sampling and testing facilities as the Control Officer or Board may require.
- (3) The equipment incorporates all known available and reasonable methods of emission control and will meet the requirements of all applicable Standards of Performance promulgated by the United States Environmental Protection Agency.
- (c) If the Board or Control Officer determines that the construction, installation or establishment of a new air contaminant source or sources will not comply with all laws or regulations of the Authority, the Board or Control Officer shall issue an Order for the prevention of the construction, installation or establishment of the air contaminant source or sources; and
  - (1) The Order shall be in writing;
- (2) The Order shall set forth the objections in detail with reference to the specific law or section or sections of the Regulation that will not be met by the proposed construction, installation or establishment;
- (3) The Order shall be signed by the Control Officer or an authorized representative.
- (d) Any Order issued pursuant to this section shall become final unless, no later than twenty (20) days after the date the Order is served pursuant to Section 3.21 of the Regulation, the owner or applicant petitions for a reconsideration of the Order, stating reasons for the reconsideration.
- (1) The Board or Control Officer shall consider the petition and shall within thirty (30) days give written notice of

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approval or disapproval of the petition, setting forth the reasons for disapproval.

- (2) If the petition of the owner or applicant is disapproved, the owner or applicant may appeal to the Pollution Control Hearings Board of the State of Washington, pursuant to Section 3.17 of this Regulation.
- (e) Any Order issued or the failure to issue such an order or approval, shall not relieve any person from their obligation to comply with any emission control requirement or with any other provision of law.

#### **NEW SECTION**

### <u>SECTION 7.17 Requirements for new sources in non-attainment areas.</u>

- (a) <u>Definitions</u>: The following definitions apply to this section:
- (1) MAJOR MODIFICATION means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Federal Clean Air Act.
- (i) Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.
- (ii) A physical change or change in the method of operation shall not include:
  - (A) Routine maintenance, repair and replacement;
- (B) Use of an alternative fuel or raw material by reason of an order under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
- (C) Use of an alternative fuel by reason of an order or rule under section 125 of the Federal Clean Air Act;
- (D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- (E) Use of an alternative fuel or raw material by a source which:
- (I) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit or approval order condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation; or
- (II) The source is approved to use under any permit or approval order issued under WAC 173-400-112;
- (F) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit or approval order condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation.
  - (G) Any change in ownership at a source.
- (H) The addition, replacement, or use of a pollution control project (as defined in 40 CFR 51.165 (a)(1)(xxv), in effect on July 1, 2001) at an existing electric utility steam generating unit, unless the Authority determines that such

- addition, replacement, or use renders the unit less environmentally beneficial, or except:
- (I) When the Authority has reason to believe that the pollution control project would result in a significant net emissions increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of title I of the Federal Clean Air Act, if any; and
- (II) The Authority determines that the increase will cause or contribute to a violation of any National Ambient Air Quality Standard or PSD increment, or visibility limitation.
- (I) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
  - (I) The SIP; and
- (II) Other requirements necessary to attain and maintain the National Ambient Air Quality Standard during the project and after it is terminated.
  - (2) MAJOR STATIONARY SOURCE means:
- (i) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Federal Clean Air Act, except that lower emissions thresholds shall apply as follows:
- (A) 70 tons per year of PM-10 in any "serious" nonattainment area for PM-10.
- (B) 50 tons per year of carbon monoxide in any "serious" nonattainment area for carbon monoxide where stationary sources contribute significantly to carbon monoxide levels in the area.
- (ii) Any physical change that would occur at a stationary source not qualifying under (b)(i) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself.
- (iii) A major stationary source that is major for volatile organic compounds or NOx shall be considered major for ozone.
- (iv) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources or the source is a major stationary source due to (b)(i)(A) or (b)(i)(B) of this subsection:
  - (A) Coal cleaning plants (with thermal dryers);
  - (B) Kraft pulp mills;
  - (C) Portland cement plants;
  - (D) Primary zinc smelters;
  - (E) Iron and steel mills;
  - (F) Primary aluminum ore reduction plants;
  - (G) Primary copper smelters;
- (H) Municipal incinerators capable of charging more than 50 tons of refuse per day;
  - (I) Hydrofluoric, sulfuric, or nitric acid plants;
  - (J) Petroleum refineries;
  - (K) Lime plants;
  - (L) Phosphate rock processing plants;
  - (M) Coke oven batteries;
  - (N) Sulfur recovery plants;
  - (O) Carbon black plants (furnace process);

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- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;
- (T) Chemical process plants;
- (U) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  - (W) Taconite ore processing plants;
  - (X) Glass fiber processing plants;
  - (Y) Charcoal production plants;
- (Z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and
- (AA) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Federal Clean Air Act.
- (v) For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, as amended.
  - (3) NET EMISSIONS INCREASE means:
- (i) The amount by which the sum of the following exceeds zero:
- (A) Any increase in actual emissions from a particular physical change or change in method of operation at a source; and
- (B) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
- (ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.
- (iii) An increase or decrease in actual emissions is creditable only if:
- (A) It occurred no more than one year prior to the date of submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit (ERC). Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.
- (B) The Authority has not relied on it in issuing any permit or order of approval for the source under this section or a previous SIP approved nonattainment area new source review regulation, which order or permit is in effect when the increase in actual emissions from the particular change occurs.

- (iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- (v) A decrease in actual emissions is creditable only to the extent that:
- (A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
- (B) It is federally enforceable at and after the time that actual construction on the particular change begins;
- (C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
- (D) The Authority has not relied on it in issuing any permit or order of approval under this section or a SIP approved nonattainment area new source review regulation; or the Authority has not relied on it in demonstrating attainment or reasonable further progress.
- (vi) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.
- (4) SIGNIFICANT means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy

Volatile organic compounds: 40 tpy

<u>Lead: 0.6 tpy</u> <u>PM-10: 15 tpy</u>

- (b) The Authority shall issue the order of approval to establish a new source or modification in a nonattainment area if it determines that the proposed project satisfies each of the following requirements:
- (1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and applicable emission standards in Regulation 1.
- (2) The proposed new source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it will achieve LAER for the air contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.
- (3) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the SIP and will comply with Section 7.18 (a)(3) for all air contaminants for which the area has not been designated non-attainment.

- (4) If the proposed new source is a major stationary source or the proposed modification is a major modification, the Authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
- (5) If the proposed new source or the proposed modification is major for the air contaminant for which the area is designated nonattainment, allowable emissions from the proposed new source or modification of that air contaminant are offset by reductions in actual emissions from existing sources in the nonattainment area. Emission offsets must be sufficient to ensure that total allowable emissions from existing major stationary sources in the nonattainment area, new or modified sources which are not major stationary sources, and the proposed new or modified source will be less than total actual emissions from existing sources (before submitting the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the Federal Clean Air Act) reasonable further progress. All offsetting emission reductions must satisfy the following requirements:
- (i) The proposed new level of allowable emissions of the source or emissions unit(s) providing the reduction must be less than the current level of actual emissions of that source or emissions unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders, or permits required by the Federal Clean Air Act, including the SIP, cannot be credited.
- (ii) The emission reductions must provide for a net air quality benefit. For marginal ozone nonattainment areas, the total emissions of volatile organic compounds or total emissions of nitrogen oxides are reduced by a ratio of 1.1 to 1 for the area in which the new source is located. For any other nonattainment area, the emissions offsets must provide a positive net air quality benefit in the nonattainment area. Determinations on whether emissions offsets provide a positive net air quality benefit will be made in accordance with the guidelines contained in 40 CFR 51 Appendix S (in effect on July 1, 2000).
- (iii) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the order of approval for the new or modified source is effective. An emission reduction credit issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.
- (6) If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards

- under the Federal Clean Air Act, including all rules in the SIP.
- (7) If the proposed project is subject to WAC 173-400-141, Ecology has issued a final PSD permit for all air contaminants subject to permitting under WAC 173-400-141.
- (8) If the proposed new source or modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that chapter.
- (9) If the proposed new source is a major stationary source within the meaning of WAC 173-400-113(1), or the proposed modification is a major modification within the meaning of WAC 173-400-113(1), the project meets the Special protection requirements for federal Class I areas in WAC 173-400-117.

#### **NEW SECTION**

### <u>SECTION 7.18 Requirements for new sources in attainment or unclassifiable areas.</u>

- (a) The Authority shall issue an order of approval to establish a new source or modification in an attainment or unclassifiable area if it determines that the proposed project satisfies each of the following requirements:
- (1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and applicable emission standards in Regulation 1.
- (2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.
- (3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:

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Pollutant	Annual	24-Hour	8-Hour	3-Hour	1-Hour
,	Average	Average	Average	<u>Average</u>	Average
CO	=	=	0.5 mg/m <sup>3</sup>	=	2 mg/m <sup>3</sup>
SO2	1.0 μg/m³	<u>5 μg/m³</u>	=	<u>25 μg/m³</u>	<u>30 μg/m³</u>
PM10	1.0 μg/m <sup>3</sup>	<u>5 μg/m³</u>	=	=	=
NO2	1 O ug/m³	_	-	_	<u> </u>

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

- (4) If the proposed project is subject to WAC 173-400-141, Ecology has issued a final PSD permit.
- (5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that program.

#### **NEW SECTION**

## SECTION 7.19 Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.

- (a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a notice of construction application with the Authority. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.
- (b) For projects not otherwise reviewable under Article 7, the Authority may:
- (1) Require that the owner or operator employ RACT for the affected emission unit;
- (2) Prescribe reasonable operation and maintenance conditions for the control equipment; and
- (3) Prescribe other requirements as authorized by chapter 70.94 RCW.
- (c) Within thirty days of receipt of a notice of construction application under this section the Authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty days of receipt of a complete notice of construction application under this section the Authority shall either issue an order of approval or a proposed RACT determination for the proposed project.
- (d) Construction shall not "commence," on a project subject to review under this section until the Authority issues a final order of approval. However, any notice of construction application filed under this section shall be deemed to be approved without conditions if the Authority takes no action within thirty days of receipt of a complete notice of construction application.
- (e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The Authority may extend the eighteen-month period upon a satisfactory showing that an

extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

#### **NEW SECTION**

#### **SECTION 7.20 Change of conditions.**

- (a) The owner or operator may request, at any time, a change in conditions of an approval order issued by the Authority and the Authority may approve the request provided the Authority finds that:
- (i) The change in conditions will not cause the source to exceed an emissions standard;
- (ii) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
- (iii) The change will not adversely impact the ability of the Authority to determine compliance with an emissions standard;
- (iv) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and
- (v) The revised order meets the requirements of Article 7, as applicable.
- (b) Actions taken under this subsection are subject to the public involvement provisions of Section 7.04.
- (c) Requests shall be made on forms provided by the Authority and shall follow the procedures and timelines for a Notice of Construction application as specified in Article 7. The fee schedule found in Section 7.13 shall also apply to these requests.

#### **NEW SECTION**

#### **SECTION 7.21 APPLICATION PROCESSING**

- (a) Within thirty days after receiving a notice of construction application, the Authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application.
- (b) Within sixty days of receipt of a complete notice of construction application, the Authority shall either issue a final decision on the application per Section 7.05 or initiate public notice per Section 7.04 on a proposed decision, followed as promptly as possible by a final decision.
- (c) A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the notice of con-

struction application required by this section. A notice of construction application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD application under WAC 173-400-141, a notice of construction application for a major modification (as defined in Section 7.17) in a nonattainment area or a notice of construction application for a major stationary source (as defined in Section 7.17) in a nonattainment area must also comply with WAC 173-400-171.

- (d) Every final determination on a notice of construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the Authority.
- (e) If the new source is a major stationary source (as defined in Section 7.17) or the change is a major modification (as defined in Section 7.17), the Authority shall:
- (i) Submit any control technology determination included in a final order of approval to the RACT/BACT/LAER clearinghouse maintained by EPA; and
  - (ii) Send a copy of the final approval order to EPA.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Olympic Air Pollution Control Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The spelling errors in the above material occurred in the copy filed by the Olympic Air Pollution Control Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

# WSR 02-10-117 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration) [Filed April 30, 2002, 4:34 p.m.]

Date of Adoption: April 24, 2002.

Purpose: Implements revisions of chapter 388-71 WAC requirements for staff orientation in Medicaid home care and processes for approval of instructors. New WAC 388-71-05936 as proposed in WSR 01-23-072 is being withdrawn. WAC 388-71-05936 as adopted was originally proposed as WAC 388-71-05937. Also, the department will publish a supplemental proposed rule-making notice and revised text of new WAC 388-71-05949, originally proposed as WAC 388-71-05950, which was amended as a result of public comments. The department will accept written comments and conduct a public hearing on revisions to this proposed rule.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-71-0525, 388-71-0530 and 388-71-0535; and amending WAC 388-71-0500, 388-71-0520, and 388-71-0540.

Statutory Authority for Adoption: Chapter 74.39A RCW, Long-term care services options—Expansion.

Other Authority: Chapter 121, Laws of 2000.

Adopted under notice filed as WSR 01-23-072 on November 20, 2001.

Changes Other than Editing from Proposed to Adopted Version: The following changes have been made in response to public comments.

Rules as Proposed	Changes (additions underlined, deletions struck through)	Explanation of changes
WAC 388-71-05910	"Client" means an individual 18 years or older, who is receiving in-home services through Medicaid personal care, COPES, or Chore programs. As applicable, the term client also means the client's legal guardian or other surrogate decision maker.	Clarify that "client" in these WACs applies only to adults.
	"Outcome based training" means training that bases the curriculum design, content, delivery, and assessment on the specific knowledge, skills, and behaviors needed to demonstrate competency.	"Outcome based training" is a term used in the statute but not in the WAC, so it is deleted here.
	"Routine interaction" means contact with residents or clients that happens more than infrequently regularly.	Under Routine Interaction, "More than infrequently" was not clear writing. The change should be more understandable.
WAC 388-71-05911	Orientation provides basic introductory information appropriate to the in-home setting and population served. The department does not approve specific orientation programs, materials, or trainers for home care agencies. Department-developed orientation materials must be used for orientation of individual providers. No test is required for orientation.	Clarification.

Rules as Proposed	Changes (additions underlined, deletions struck through)	Explanation of changes
WAC 388-71-05912 (4)(a)	Methods for supporting effective communication among the client/guardian, the provider, and family members.  (6) (c) The provider's duty to refrain from interfering with protect and promote the rights of each client, and assist the client's to exercise of his or her rights;  (d) How and to whom providers should report any concerns they may have about a client's decision concerning the client's care including the client's case manager;	Clarify that communication with a guardian, when there is one, is included in this topic.  (6) (c) Clarify intention of teaching active support of clients' rights, consistent with orientation requirements for AFH and BH.  (d) Clarification pointing out the importance of the case manager.
WAC 388-71-05915	WAC 388-71-05915 What documentation is required for orientation? The home care agency or individual provider must maintain documentation of completion of orientation issued by the home care agency, area agency on aging, or DSHS office that provides the orientation, that includes:  (1) A list of the specific information and skills taught;  (2) Signatures of the instructor and trainee indicating completion of the required information and skills;  (3) The trainee's date of employment;  (4) The location of the training orientation; and  (5) The date(s) of training orientation.	Clarify who issues the documentation of completion of orientation.  Clarify that orientation includes only information, and does not include skills.  A number of people found it confusing to refer to orientation as "training," so the term is changed to "orientation."
WAC 388-71-05916(2)	(2) Individual providers must complete orientation provided by DSHS or the area agency on aging (AAA) no later than fourteen calendar days after beginning to work with their first DSHS client. Individual providers who live and are providing care at a great distance from the DSHS or AAA office may be oriented by distance learning, with phone contact by the person overseeing the orientation to answer questions. Orientation must be provided by DSHS or area agency on aging (AAA) staff.	Some individual providers (IPs) live, and are providing care at a great distance from a DSHS or AAA office. Those IPs may be oriented by distance learning, with phone contact by DSHS or AAA staff to answer questions. This situation is unique to individual providers.
WAC 388-71-05919	What eore knowledge and skills must be taught in basic training? The Bbasic training knowledge and skills must include all of the learning outcomes and competencies published by the department, for the following core knowledge and skills:The basic training outcomes and competencies may be obtained from the DSHS Aging and Adult Services Administration.	Clarifies that there are more detailed learning outcomes published by the department, in addition to the core knowledge and skills listed.  Explain where to get the outcomes and competencies for basic training.
WAC 388-71-05920	as provided under WAC 388-71-05940 05938 through 388-71-05946 05944	Reflects renumbering.
WAC 388-71-05922	Basic training must be documented by a certificate of successful completion of training, <u>issued by the instructor or training entity</u> , that includes:	Clarify who issues the certificate.

Rules as Proposed	Changes (additions underlined, deletions struck	Explanation of changes	
_	through)		
WAC 388-71-05924	Modified basic training is a subset of the basic training curriculum designed for certain health care workers defined in WAC 388-71-05929, Only the training curriculum developed by DSHS may be used for modified basic training.	Clarifications.	
WAC 388-71-05925	Modified basic training must include the following all of the outcomes and competencies published by DSHS for the following core knowledge and skills:	Clarifies that there are more detailed learning outcomes published by the department, in addition to the core knowledge and skills listed.	
	The modified basic outcomes and competencies may be obtained from the DSHS Aging and Adult Services Administration.	Explain where to get the outcomes and competencies for basic training.	
WAC 388-71-05926	as provided in under WAC 388-71-05940 05938 through 388-71-05946 05944	Reflects renumbering; make wording consistent with other sections.	
WAC 388-71-05928	Modified basic training must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:	Clarify who issues the certificate of successful completion.	
WAC 388-71-05930	(1) Must possess a certificate within one hundred eighty days of beginning employment; and	Clarify that both (1) and (2) must be met.	
WAC 388-71-05931	(1) Must:  (a) Possess a certificate of successfully completing modified basic training or the modified basic challenge test, within one hundred eighty days of beginning employment, and have documentation that the parent has received individualized or other	<ul><li>(1) Clarify that taking a class or the challenge test for that class meets the requirements.</li><li>(2) Clarify that this applies only if the parent provides care only for his or her own</li></ul>	
	specific instruction on the care of the adult child; or (b) Pass the DSHS challenge test; or (e) (b) Possess a certificate of successfully completing basic training or the basic training challenge test. (2) Is exempt from the orientation and continuing education requirements if the parent provides care	adult child.	
WAC 388-71-05933	only for his or her own adult child.  (1) Individual providers and home care agency providers must complete at least ten hours of continuing education each calendar year (January 1 through December 31) after the year in which they successfully complete basic or modified basic training.	Clarification of when CE requirement begins, based on changes in the statute made in SHB 2707, 2002 legislative session.	
WAC 388-71-05936	Section deleted and withdrawn as proposed in WSR 01-23-072. See new WAC 388-71-036 below.	Change in the law made this unnecessary and inaccurate.	

Permanent [16]

Rules as Proposed	Changes (additions underlined, deletions struck	Explanation of changes
	through)	
WAC # as Proposed	WAC # as Adopted	Editing and renumbering.
WAC 388-71-05937	WAC 388-71-05936	
WAC 388-71-05938	WAC 388-71-05937	
WAC 388-71-05939	WAC 388-71-05938	
WAC 388-71-05940	WAC 388-71-05939	
WAC 388-71-05941	WAC 388-71-05940	
WAC 388-71-05942	WAC 388-71-05941	
WAC 388-71-05943	WAC 388-71-05942	
WAC 388-71-05944	WAC 388-71-05943	
WAC 388-71-05945	WAC 388-71-05944	
WAC 388-71-05946	WAC 388-71-05945	
WAC 388-71-05947	WAC 388-71-05946	
WAC 388-71-05948	WAC 388-71-05947	
WAC 388-71-05949	WAC 388-71-05948	
WAC 388-71-05950	WAC 388-71-05949	
WAC 388-71-05951	WAC 388-71-05950	
WAC 388-71-05952	WAC 388-71-05951	
WAC 388-71-05953	WAC 388-71-05952	
WAC 388-71-05938	WAC 388-71-05937 & Home care individual pro-	Clarification.
	viders must provide DSHS or the area agency on	
	aging with proof documentation of completion of	
	continuing education credits.	
WAC 388-71-05939	WAC 388-71-05938 9 Competency testing, includ-	Clarify that challenge testing is included
	ing challenge testing	in references to competency testing.
WAC 388-71-05941	WAC 388-71-05940 ± Individuals who perform	Edit.
	competency testing must have documentable docu-	
	mented experience or training in assessing compe-	
	tencies.	
WAC 388-71-05943	WAC 388-71-059423 How must competency test	Clarification.
	administration be standardized? To standardize	
	competency test administration	
WAC 388-71-05945	WAC 388-71-05944 5 A competency test that is	Differentiate testing procedures for testing
WAC 300-71-03743	part of a course may be taken twiceadminis-	as part of a class, and challenge testing.
	tered. If a challenge test is available for a course, it	as part of a class, and chancings tosting.
	may be taken only once. If the test is failed, the	
	person must take the classroom course.	
WAC 388-71-05946	WAC 388-71-05945 6 The instructor or training	Where there is an educational entity such
WAC 300-11-037-0	entity is responsible for:	as a community college or private busi-
	entity is responsible for.	ness that provides training, the training
		entity holds some of these responsibilities.

Rules as Proposed	Changes (additions underlined, deletions struck	Explanation of changes
	through)	
WAC 388-71-05947	WAC 388-71-05946 7  DSHS contracts with area agencies on aging (AAA) or other entities to conduct orientation, basic, modified basic, and continuing education training programs for individual providers and home care agency providers. The AAA training entity must approve any instructor under contract with the AAA entity to conduct training programs. The AAA's entity's contractors must meet the minimum qualifications for instructors under this chapter and any additional qualifications established through the AAA's entity's contracting procedures.	DSHS contracts with other educational entities besides AAAs.
WAC 388-71-05948	WAC 388-71-05947 & When eCan DSHS or the AAA not approve an instructor?  (1) DSHS programs. No administrative remedies are available to dispute DSHS' or the AAA's decision not to accept an offer, except as may be provided through the contracting process.	This change clarifies that the applicable contracting procedure determines what remedies may be available.
WAC 388-71-05950	WAC 388-71-05949 <del>50</del> Not included.	The department will publish a supplemental proposed rule-making notice and revised text of proposed new WAC 388-71-05950, which was amended as a result of public comments. The department will accept written comments and conduct a public hearing on revisions to this proposed rule.
WAC 388-71-05952	WAC 388-71-05951 2 What must be included in a class on principles of adult education theory and practice? A class on adult education theory and principles must include	Editing.
WAC 388-71-05953	WAC 388-71-05952 3 (1) Training, including all breaks, must not exceed eight hours within a day twenty four hour period;	Clarify "training" to include instruction or testing time plus breaks.
WAC 388-71-0500	What is the purpose of WAC 388-71-0500 through 388-71-0580 05952? A client/legal representative may choose an individual provider or a home care agency provider. The intent of WAC 388-71-0500 through 388-71-0580 388-71-05952	Correct numbering.
WAC 388-71-0520	An individual provider or a home care agency provider for an adult client must meet the training requirements in WAC 388-71-05910 through 388-71-05952.	Correct numbering.
WAC 388-71-0540	(6) Does not successfully complete the training requirements within the time limits required in WAC 388-71-05910 through 388-71-05952;	Correct numbering.

Permanent [18]

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 42, Amended 3, Repealed 3.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 42, Amended 3, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 24, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

WAC 388-71-0500 What is the purpose of WAC 388-71-0500 through ((388-71-0580)) 388-71-05952? A client/legal representative may choose an individual provider or a home care agency provider. The intent of WAC 388-71-0500 through ((388-71-0580)) 388-71-05952 is to describe the:

- (1) Qualifications of an individual provider, as defined in WAC 388-15-202 (25) and (26);
- (2) Qualifications of a home care agency provider, as defined in WAC 388-15-202(2) and chapter 246-336 WAC;
- (3) Conditions under which the department or the area agency on aging (AAA) will pay for the services of an individual provider or a home care agency provider;
- (4) Training requirements for an individual provider and home care agency provider.

AMENDATORY SECTION (Amending WSR 00-03-043, filed 1/13/00, effective 2/13/00)

WAC 388-71-0520 Are there ((educational)) training requirements for an individual provider or a home care agency provider of an adult client? ((There are educational requirements for an)) An individual provider or a home care agency ((employee)) provider for an adult client must meet the training requirements in WAC 388-71-05910 through 388-71-05952. ((They must:

- (1) Possess a certificate of successfully completing department-designated fundamentals of care giving training within one hundred and twenty days after beginning employment;
- (2) Complete a minimum of ten hours of continuing education credits each calendar year following the year in which the fundamentals of care giving training is taken. One hour of completed instruction equals one hour of credit on topics that

pertain to services provided in an in-home setting including, but not limited to:

- (a) Client's rights;
- (b) Personal care (such as transfers or skin care);
- (c) Mental-illness;
- (d) Dementia;
- (e) Depression;
- (f) Medication assistance:
- (g) Communication skills;
- (h) Alternatives to restraints;
- (I) Activities for clients; and
- (3) Provide the department/AAA with proof of completion of continuing education credits.))

AMENDATORY SECTION (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

WAC 388-71-0540 When will the department or AAA deny payment for services of an individual provider or home care agency provider? The department or AAA will deny payment for the services of an individual provider or home care agency provider who:

- (1) Is the client's spouse, per 42 C.F.A. 441.360(g), except in the case of an individual provider for a Chore services client. Note: For Chore espousal providers, the department pays a rate not to exceed the amount of a one-person standard for a continuing general assistance grant, per WAC 388-478-0030;
- (2) Is the natural/step/adoptive parent of a minor client aged seventeen or younger receiving services under this chapter;
- (3) Has been convicted of a disqualifying crime, under R.W. 43.43.830 and 43.43.842 or of a crime relating to drugs as defined in R.W. 43.43.830;
- (4) Has abused, neglected, abandoned, or exploited a minor or vulnerable adult, as defined in chapter 74.34 R.W.;
- (5) Has had a license, certification, or a contract for the care of children or vulnerable adults denied, suspended, revoked, or terminated for noncompliance with state and/or federal regulations;
- (6) Does not successfully complete the training requirements within the time limits required in WAC ((388-71-0520)) 388-71-05910 through 388-71-05952;
- (7) Is already meeting the client's needs on an informal basis, and the client's assessment or reassessment does not identify any unmet need; and/or
- (8) Is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of an agency provider).
- (9) In addition, the department or AAA may deny payment to or terminate the contract of an individual provider as provided under WAC 388-71-0546, 388-71-0551, and 388-71-0556.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

#### **REPEALER**

The following sections of the Washington Administrative Code are repealed:

•	
WAC 388-71-0525	Are there any exemptions from the training requirements?
WAC 388-71-0530	Are there special rules about training for parents who are the individual providers of division of developmental disabilities (DID) adult children?

WAC 388-71-0535

Are there special rules about training for parents who are the individual providers of non-DID adult children?

#### **NEW SECTION**

WAC 388-71-05910 What definitions apply to WAC 388-71-05911 through 388-71-05952? "Client" means an individual age eighteen or older, receiving in-home services through Medicaid personal care, COPES, or Chore programs. As applicable, the term client also means the client's legal guardian or other surrogate decision maker.

"Competency" means the minimum level of information and skill trainees are required to know and be able to demonstrate.

"DSHS" refers to the department of social and health services.

"Learning outcomes" means the specific information, skills and behaviors desired of the learner as a result of a specific unit of instruction, such as what they would learn by the end of a single class or an entire course. Learning outcomes are generally identified with a specific lesson plan or curriculum.

"Routine interaction" means contact with clients that happens regularly.

#### **NEW SECTION**

WAC 388-71-05911 What is orientation? Orientation provides basic introductory information appropriate to the inhome setting and population served. The department does not approve specific orientation programs, materials, or trainers for home care agencies. Department-developed orientation materials must be used for orientation of individual providers. No test is required for orientation.

#### **NEW SECTION**

WAC 388-71-05912 What content must be included in an orientation? Orientation may include the use of videotapes, audiotapes, and other media if the person overseeing the orientation is available to answer questions or concerns for the person(s) receiving the orientation. Orientation must include introductory information in the following areas:

- (1) The care setting;
- (2) The characteristics and special needs of the population served;
  - (3) Fire and life safety, including:
- (a) Emergency communication (including phone system if one exists);
- (b) Evacuation planning (including fire alarms and fire extinguishers where they exist);
- (c) Ways to handle client injuries and falls or other accidents:
- (d) Potential risks to clients or providers (for instance, aggressive client behaviors and how to handle them); and
- (e) The location of agency policies and procedures, when orientation takes place in a home care agency.
  - (4) Communication skills and information, including:
- (a) Methods for supporting effective communication among the client/guardian, the provider, and family members:
  - (b) Use of verbal and nonverbal communication;
- (c) Review of written communications and/or documentation required for the job, including the client's service plan; and
  - (d) Whom to contact about problems and concerns.
- (5) Universal precautions and infection control, including:
  - (a) Proper hand washing techniques;
- (b) Protection from exposure to blood and other body fluids;
- (c) Appropriate disposal of contaminated/hazardous articles;
- (d) Reporting exposure to contaminated articles, blood, or other body fluids; and
  - (e) What a provider should do if they are ill.
  - (6) Client rights, including:
- (a) The client's right to confidentiality of information about the client;
- (b) The client's right to participate in decisions about the client's care, and to refuse care;
- (c) The provider's duty to protect and promote the rights of each client, and assist the client to exercise his or her rights;
- (d) How and to whom providers should report any concerns they may have about a client's decision concerning the client's care, including the client's case manager;
- (e) Providers' duty to report any suspected abuse, abandonment, neglect, or exploitation of a client;
- (f) Advocates that are available to help clients (LTC ombudsmen, organizations); and
- (g) Complaint lines, hot lines, and client grievance procedures.

#### **NEW SECTION**

WAC 388-71-05913 Is competency testing required for orientation? There is no competency testing required for orientation.

WAC 388-71-05914 Is there a challenge test for orientation? There is no challenge test for orientation.

#### **NEW SECTION**

WAC 388-71-05915 What documentation is required for orientation? The home care agency or individual provider must maintain documentation of completion of orientation, issued by the home care agency, area agency on aging, or DSHS office that provides the orientation, that includes:

- (1) The trainee's name;
- (2) A list of the specific information taught;
- (3) Signature of the person overseeing the orientation indicating completion of the required information;
  - (4) The trainee's date of employment;
  - (5) The location of the orientation; and
  - (6) The date(s) of orientation.

#### **NEW SECTION**

WAC 388-71-05916 Who is required to complete orientation, and when must it be completed? (1) Home care agency providers must complete orientation before working with the agency's clients. Orientation must be provided by appropriate agency staff.

- (2) Individual providers must complete orientation provided by DSHS or the area agency on aging (AAA) no later than fourteen calendar days after beginning to work with their first DSHS client. Individual providers who live and are providing care at a great distance from the DSHS or AAA office may be oriented by distance learning, with phone contact by the person overseeing the orientation to answer questions.
- (3) Parents who are individual providers for their adult children are exempt from the orientation requirement.

#### **NEW SECTION**

WAC 388-71-05917 What is basic training? Basic training includes the core knowledge and skills that providers need to provide personal care services effectively and safely. Only the training curriculum developed by DSHS may be used for basic training.

#### **NEW SECTION**

WAC 388-71-05918 Is there an alternative to the basic training for some health care workers? Certain health care workers may complete the modified basic training instead of basic training if they meet the requirements in WAC 388-71-05929.

#### **NEW SECTION**

WAC 388-71-05919 What core knowledge and skills must be taught in basic training? The basic training knowledge and skills must include all of the learning outcomes and

competencies published by the department for the following core knowledge and skills:

- (1) Understanding and using effective interpersonal and problem solving skills with clients, family members, and other care team members:
- (2) Taking appropriate action to promote and protect client rights, dignity, and independence;
- (3) Taking appropriate action to promote and protect the health and safety of the client and the caregiver;
- (4) Correctly performing required personal care tasks while incorporating client preferences, maintaining the client's privacy and dignity, and creating opportunities that encourage client independence;
- (5) Adhering to basic job standards and expectations. The basic training learning outcomes and competencies may be obtained from the DSHS Aging and Adult Services Administration.

#### **NEW SECTION**

WAC 388-71-05920 Is competency testing required for basic training? Competency testing is required for basic training as provided under WAC 388-71-05938 through 388-71-05944.

#### **NEW SECTION**

WAC 388-71-05921 Is there a challenge test for basic training? Individuals may take the DSHS challenge test instead of the required training. If a person does not pass a challenge test on the first attempt, they may not re-take the challenge test and must attend a class.

#### **NEW SECTION**

WAC 388-71-05922 What documentation is required for successful completion of basic training? Basic training must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:

- (1) The name of the trainee;
- (2) The name of the training;
- (3) The location of the training;
- (4) The instructor's name and signature; and
- (5) The date(s) of training.

The trainee must retain the original certificate. A home care agency must keep a copy of the certificate on file. An individual provider must give a copy of the certificate to DSHS or area agency on aging.

#### **NEW SECTION**

WAC 388-71-05923 Who is required to complete basic training, and when? Individual providers and home care agency providers must complete department-developed basic training and demonstrate competency within one hundred twenty days after beginning to work with their first DSHS client.

WAC 388-71-05924 What is modified basic training? Modified basic training is a subset of the basic training curriculum designed for certain health care workers defined in WAC 388-71-05929, whose previous training includes many of the competencies taught in the full basic training. Only the training curriculum developed by DSHS may be used for modified basic training.

#### **NEW SECTION**

WAC 388-71-05925 What knowledge and skills must be included in modified basic training? Modified basic training must include all of the learning outcomes and competencies published by DSHS for the following core knowledge and skills:

- (1) Client rights, including mandatory reporting requirements;
  - (2) Medication assistance regulations;
  - (3) Nurse delegation regulations;
- (4) Assessment and observations in home and community settings;
  - (5) Documentation in home and community settings;
- (6) Service planning in home and community care settings;
- (7) Resource information, including information on continuing education; and
  - (8) Self-directed care regulations.

The modified basic learning outcomes and competencies may be obtained from the DSHS aging and adult services administration.

#### **NEW SECTION**

WAC 388-71-05926 Is competency testing required for modified basic training? Competency testing is required for modified basic training as provided under WAC 388-71-05938 through 388-71-05944.

#### **NEW SECTION**

WAC 388-71-05927 Is there a challenge test for modified basic training? Individuals may take the department's challenge test instead of the required training. If a person does not pass a challenge test on the first attempt, they may not re-take the challenge test and must attend the class.

#### **NEW SECTION**

WAC 388-71-05928 What documentation is required for successful completion of modified basic training? Modified basic training must be documented by a certificate of successful completion of training, issued by the instructor or training entity, that includes:

- (1) The name of the trainee;
- (2) The name of the training;
- (3) The location of the training;
- (4) The instructor's name and signature; and
- (5) The date(s) of training.

The trainee must retain the original certificate. A home care agency must keep a copy of their employees' certificates on file. An individual provider must give a copy to DSHS or area agency on aging.

#### **NEW SECTION**

WAC 388-71-05929 Who may take modified basic training instead of the full basic training? Modified basic training may be taken, instead of the full basic training, by a person who can document they have successfully completed training as a registered or licensed practical nurse, certified nursing assistant, physical therapist, occupational therapist, or Medicare-certified home health aide. In addition, modified basic training may be taken by a natural, step, or adoptive parent who is the individual provider for his or her adult child who is not receiving services through DSHS' division of developmental disabilities.

#### **NEW SECTION**

WAC 388-71-05930 What are the training requirements and exemptions for parents who are individual providers for their adult children receiving services through DDD? A natural, step, or adoptive parent who is the individual provider for his or her adult child who is receiving services through DSHS' division of developmental disabilities (DDD):

- (1) Must possess a certificate of successfully completing a six-hour DDD-approved training or a specially designed DSHS-approved training within one hundred eighty days of beginning employment; and
- (2) Is exempt from the orientation, basic training, and continuing education requirements if the parent provides care only for his or her own adult child.

#### **NEW SECTION**

WAC 388-71-05931 What are the training requirements and exemptions for parents who are individual providers for their adult children who do not receive services through DDD? A natural, step, or adoptive parent who is the individual provider for his or her adult child who is not receiving services through DSHS' division of developmental disabilities:

- (1) Must:
- (a) Possess a certificate of successfully completing modified basic training or the modified basic challenge test within one hundred eighty days of beginning employment, and have documentation that the parent has received individualized or other specific instruction on the care of the adult child; or
- (b) Possess a certificate of successfully completing basic training or the basic training challenge test.
- (2) Is exempt from the orientation and continuing education requirements if the parent provides care only for his or her own adult child.

WAC 388-71-05932 What is continuing education? Continuing education is additional caregiving-related training designed to increase and keep current a person's knowledge and skills. DSHS does not pre-approve continuing education programs or instructors.

#### **NEW SECTION**

WAC 388-71-05933 How many hours of continuing education are required each year? (1) Individual providers and home care agency providers must complete at least ten hours of continuing education each calendar year (January 1 through December 31) after the year in which they successfully complete basic or modified basic training.

(2) One hour of completed classroom instruction or other form of training (such as a video or on-line course) equals one hour of continuing education.

#### **NEW SECTION**

WAC 388-71-05934 What kinds of training topics are required for continuing education? Continuing education must be on a topic relevant to the care setting and care needs of clients, including but not limited to:

- (1) Client rights;
- (2) Personal care (such as transfers or skin care);
- (3) Mental illness:
- (4) Dementia;
- (5) Developmental disabilities;
- (6) Depression;
- (7) Medication assistance;
- (8) Communication skills;
- (9) Positive client behavior support;
- (10) Developing or improving client centered activities;
- (11) Dealing with wandering or aggressive client behaviors; and
  - (12) Medical conditions.

#### **NEW SECTION**

WAC 388-71-05935 Is competency testing required for continuing education? Competency testing is not required for continuing education.

#### **NEW SECTION**

WAC 388-71-05936 May basic or modified basic training be completed a second time and used to meet the continuing education requirement? Re-taking basic or modified basic training may not be used to meet the continuing education requirement.

#### **NEW SECTION**

WAC 388-71-05937 What are the documentation requirements for continuing education? (1) The home care agency or individual provider must maintain documentation of continuing education including:

- (a) The trainee's name;
- (b) The title or content of the training;
- (c) The instructor's name or the name of the video, online class, professional journal, or equivalent instruction materials completed;
  - (d) The number of hours of training; and
  - (e) The date(s) of training.
- (2) Home care individual providers must provide DSHS or the area agency on aging with documentation of completion of continuing education credits.

#### **NEW SECTION**

WAC 388-71-05938 What is competency testing? Competency testing, including challenge testing, is evaluating a trainee to determine if they can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning outcomes of a particular course.

#### **NEW SECTION**

WAC 388-71-05939 What components must competency testing include? Competency testing must include the following components:

- (1) Skills demonstration of ability to perform and/or implement specific caregiving approaches, and/or activities as appropriate for the training;
- (2) Written evaluation to show knowledge of the learning outcomes included in the training; and
- (3) A scoring guide for the tester with clearly stated scoring criteria and minimum proficiency standards.

#### **NEW SECTION**

WAC 388-71-05940 What experience or training must individuals have to be able to perform competency testing? Individuals who perform competency testing must have documented experience or training in assessing competencies.

#### **NEW SECTION**

WAC 388-71-05941 What training must include the DSHS-developed competency test? Basic and modified basic training must include the DSHS-developed competency test.

#### **NEW SECTION**

WAC 388-71-05942 How must competency test administration be standardized? To standardize competency test administration, testing must include the following components:

- (1) An instructor for the course who meets all minimum qualifications for the course he or she teaches must oversee all testing; and
  - (2) The tester must follow DSHS guidelines for:
  - (a) The maximum length of time allowed for testing;

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- (b) The amount and nature of instruction given to students before beginning a test;
- (c) The amount of assistance to students allowed during testing;
- (d) The accommodation guidelines for students with disabilities; and
- (e) Accessibility guidelines for students with limited English proficiency.

WAC 388-71-05943 What form of identification must providers show a tester before taking a competency or challenge test? Providers must show a tester photo identification before taking a competency test (or challenge test, when applicable) for basic or modified basic training.

#### **NEW SECTION**

WAC 388-71-05944 How many times may a competency test be taken? (1) A competency test that is part of a course may be taken twice. If the test is failed a second time, the person must re-take the course before any additional tests are administered.

(2) If a challenge test is available for a course, it may be taken only once. If the test is failed, the person must take the classroom course.

#### **NEW SECTION**

WAC 388-71-05945 What are an instructor's or training entity's responsibilities? The instructor or training entity is responsible for:

- (1) Coordinating and teaching classes;
- (2) Assuring that the curriculum used is taught as designed;
  - (3) Selecting qualified guest speakers where applicable;
- (4) Administering or overseeing the administration of DSHS competency and challenge tests;
- (5) Maintaining training records including student tests and attendance records for a minimum of six years;
- (6) Reporting training data to DSHS in DSHS-identified time frames; and
  - (7) Issuing or re-issuing training certificates to students.

#### **NEW SECTION**

WAC 388-71-05946 Must instructors be approved by DSHS or an AAA? (1) DSHS must approve any instructor under contract with DSHS to conduct basic or modified basic training classes using the training curricula developed by DSHS. DSHS may select contracted instructors using any applicable contracting procedures. Contractors must meet the minimum qualifications for instructors under this chapter and any additional qualifications established through the contracting procedure.

(2) DSHS contracts with area agencies on aging (AAA) or other entities to conduct orientation, basic, modified basic, and continuing education training programs for individual providers and home care agency providers. The training

entity must approve any instructor under contract with the entity to conduct training programs. The entity's contractors must meet the minimum qualifications for instructors under this chapter and any additional qualifications established through the entity's contracting procedures.

#### **NEW SECTION**

WAC 388-71-05947 Can DSHS or the AAA deny or terminate a contact with an instructor or training entity? (1) DSHS or an area agency on aging (AAA), as applicable, may determine not to accept an offer by a person or organization seeking a contract with DSHS or the AAA to conduct training programs. No administrative remedies are available to dispute DSHS' or the AAA's decision not to accept an offer, except as may be provided through the contracting pro-

(2) DSHS or the AAA may terminate any training contract in accordance with the terms of the contract. The contractor's administrative remedies shall be limited to those specified in the contract.

#### **NEW SECTION**

WAC 388-71-05948 What is a guest speaker, and what are the minimum qualifications to be a guest speaker for basic training? Guest speakers for basic training programs teach a specific subject in which they have expertise, under the supervision of the instructor. The guest speaker must have, as minimum qualifications, an appropriate background and experience that demonstrates that the guest speaker has expertise on the topic he or she will teach. The instructor must select guest speakers that meet the minimum qualifications, and maintain documentation of this background. DSHS does not approve guest speakers.

#### **NEW SECTION**

WAC 388-71-05950 What must be included in a class on adult education? A class on adult education must include content, student practice, and evaluation of student skills by the instructor in:

- (1) Adult education theory and practice principles;
- (2) Instructor facilitation techniques;
- (3) Facilitating learning activities for adults;
- (4) Administering competency testing; and
- (5) Working with adults with special training needs (for example, English as a second language or learning and literacy issues).

#### **NEW SECTION**

WAC 388-71-05951 What physical resources are required for basic or modified basic classroom training and testing? (1) Classroom facilities used for basic or modified basic classroom training must be accessible to trainees and provide adequate space for learning activities, comfort, lighting, lack of disturbance, and tools for effective teaching and learning such as white boards and flip charts. Appropri-

100

ate supplies and equipment must be provided for teaching and practice of caregiving skills in the class being taught.

(2) Testing sites must provide adequate space for testing, comfort, lighting, and lack of disturbance appropriate for the written or skills test being conducted. Appropriate supplies and equipment necessary for the particular test must be provided.

#### **NEW SECTION**

WAC 388-71-05952 What standard training practices must be maintained for basic or modified basic classroom training and testing? The following training standards must be maintained for basic or modified basic classroom training and testing:

- (1) Training, including all breaks, must not exceed eight hours within one day;
- (2) Training provided in short time segments must include an entire unit, skill or concept;
  - (3) Training must include regular breaks; and
- (4) Students attending a classroom training must not be expected to leave the class to attend to job duties, except in an emergency.

#### WSR 02-11-008 PERMANENT RULES COUNTY ROAD ADMINISTRATION BOARD

[Filed May 2, 2002, 1:45 p.m.]

Date of Adoption: April 18, 2002.

Purpose: Amends WAC 136-130-030 Project prioritization in the Puget Sound region and 136-130-070 Project prioritization in the southwest region.

Citation of Existing Rules Affected by this Order: Amending Title 136 WAC.

Statutory Authority for Adoption: Chapter 36.79 RCW. Adopted under notice filed as WSR 02-06-105 on March 5, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing. April 29, 2002 Jay P. Weber **Executive Director** 

AMENDATORY SECTION (Amending WSR 01-05-009, filed 2/8/01, effective 3/11/01)

WAC 136-130-030 Project prioritization in Puget Sound region (PSR). Each county in the PSR may submit projects requesting RATA funds not to exceed 80% of the forecasted regional apportionment. Each project shall be rated in accordance with the PSR RAP rating procedures. The PSR funding period shall allot a minimum of 25% of the forecasted regional apportionment to projects on roads classified as major collectors (07) or minor collectors (08). ((PSR-RAP rating points shall be assigned on the basis of twenty points for traffic volume, twenty-five points for accident history, fifteen-points for structural condition, twenty-five points for geometric condition, and fifteen points for special use and need.))

PSR RAP maximum rating points for the three project types shall be assigned based on the following: Project Type:

Rating Criteria:	Road	Intersection	<u>Bridge</u>
Traffic Volume	<u>20</u>	<u>20</u>	<u>20</u>
Accident History	<u>25</u>	<u>25</u>	<u>25</u>
Structure	<u>15</u>	<u>5</u>	<u>20</u>
Geometry	<u>25</u>	<u>35</u>	<u>20</u>
Special Road Usage	<u>15</u>	<u>15</u>	<u>15</u>

Bridge category projects that will not replace the structure must have federal funds committed to them prior to submittal for RATA funding.

**TOTAL POINTS** 

100

100

Prioritization of PSR projects shall be on the basis of total PSR RAP rating points shown on the project worksheet and the prospectus form of the project application.

AMENDATORY SECTION (Amending WSR 01-05-009, filed 2/8/01, effective 3/11/01)

WAC 136-130-070 Project prioritization in southwest region (SWR). Each county in the SWR may submit projects requesting RATA funds not to exceed thirty percent of the forecasted SWR biennial apportionment. No bridge replacement projects will be funded. Each project shall be rated in accordance with the SWR RAP rating procedures. SWR RAP rating points shall be assigned on the basis of fifty road condition points, consisting of twenty-five points for structural condition and twenty-five points for surface condition, fifty points for geometrics, ten points for traffic volume and ten points for traffic accidents, except that portland cement concrete surfaces and asphalt surfaces with cement concrete bases shall have fifty points for road surface condition and no points for structural condition and except that gravel roads shall have ((thirty-five)) fifty points maximum for surface condition, and fifteen points maximum for road-

[ 25 ] Permanent bed width in geometrics and no other geometric points. Prioritization of SWR projects shall be on the basis of total SWR RAP rating points shown on the project worksheets and the prospectus form of the project application.

### WSR 02-11-011 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed May 3, 2002, 11:09 a.m.]

Date of Adoption: May 3, 2002.

Purpose: Adopts rules of procedure for hearings relating to proposed driver's license suspensions, revocations, and denials resulting from arrests for driving while under the influence of liquor or any drug.

Citation of Existing Rules Affected by this Order: Amending WAC 308-08-600.

Statutory Authority for Adoption: RCW 46.01.110 and 46.20.308.

Adopted under notice filed as WSR 01-21-109 on October 23, 2001.

Changes Other than Editing from Proposed to Adopted Version: Deleted reference to waiver of rules in WAC 308-103-010. Definition of the term "fax" deleted from WAC 308-103-020, and the subsequent subsections renumbered. The department finds that these changes do not make the final adopted rules substantially different from the proposed rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 19, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 19, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 3, 2002 Denise M. Movius Assistant Director

## Chapter 308-103 WAC RULES OF PROCEDURE FOR HEARINGS CONDUCTED UNDER RCW 46.20.308

#### **NEW SECTION**

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WAC 308-103-010 Applicability. These rules apply to hearings conducted pursuant to RCW 46.20.308.

#### **NEW SECTION**

WAC 308-103-020 **Definitions.** As used in this chapter, unless the context requires otherwise, the term:

- (1) "Department" refers to the department of licensing;
- (2) "Hearing" means a formal hearing as authorized and conducted pursuant to RCW 46.20.308(8);
- (3) "Hearing office" refers to the physical location from which a hearing officer conducts hearings under RCW 46.20.308. Where appropriate, the term "hearing office" also refers to the staff assigned to a hearing office;
- (4) "Hearing officer" means a person who is appointed by the director of the department to conduct hearings under RCW 46.20.308;
- (5) "Legal representative" means an attorney licensed and authorized to practice law in the state of Washington;
- (6) "Petitioner" refers to a driver subject to the provisions of RCW 46.20.308 who has requested a hearing;
- (7) "Sworn report" means the document completed and filed with the department by the arresting officer in accordance with RCW 46.20.308 (6)(e), and which confers jurisdiction upon the department.

#### **NEW SECTION**

WAC 308-103-030 Computation of time. In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation. Nothing contained herein is intended to extend the statutory requirement that a hearing be held within sixty days of a petitioner's arrest.

#### **NEW SECTION**

WAC 308-103-040 Requests for hearings. The request for a hearing shall be in compliance with the following requirements:

- (1) The petitioner must file his or her formal request for hearing:
- (a) Within thirty days of arrest if the petitioner submitted to a breath test;
- (b) Within thirty days of arrest if the petitioner is alleged to have refused the breath or blood test; or
- (c) Within thirty days of the date notice of the department's intention to suspend, revoke, or deny the petitioner's license, permit, or privilege to drive is given in the event notice is given by the department following a blood test;
- (2) If a request for hearing is mailed, it must be received by the department within seven days of the date the request was postmarked in order to be considered timely under this section. This provision may be waived if the request is received by the department within thirty days of the date of arrest, or within thirty days of the date notice is given in the

event notice is given by the department following a blood test, or if the petitioner and the department agree to a wavier of the sixty-day hearing requirement;

- (3) The request for a hearing shall be in writing. The petitioner may use the form provided by the department for this purpose or any other writing;
- (4) The hearing request form provided by the department shall include a statement that if the parties or witness(es) are hearing or speech impaired and/or non-English speaking, a qualified interpreter will be appointed at no cost to the parties or witnesses. The form shall include a section where the petitioner may request an interpreter and where he or she may identify the language and/or nature of the interpretive services needed:
- (5) The request for hearing shall include the following information with respect to the petitioner:
  - (a) Full name;
  - (b) Mailing address;
  - (c) Daytime telephone number, including area code;
  - (d) Date of birth; and
  - (e) Driver's license number;
- (6) If petitioner will have legal representation at the administrative hearing, the request shall also include the legal representative's name, mailing address, and daytime telephone number, including area code;
- (7) The request for hearing shall be submitted to the Department of Licensing, Driver Services Division, Hearings & Interviews, P.O. Box 9031, Olympia, Washington 98507-9031:
- (8) The written request for hearing shall be accompanied by a filing fee of one hundred dollars, unless the petitioner is entitled to a waiver of the filing fee because of indigence, in which case a request and justification for the fee waiver shall accompany the hearing request;
- (9) A petitioner who has been denied a court-appointed attorney on the underlying related criminal charge because he or she is deemed "not indigent" is not eligible for a fee waiver;
  - (10) Indigence may be established as follows:
- (a) Written verification of court-appointed legal counsel on the associated underlying criminal charge;
- (b) Written verification of current involuntary commitment to a public mental health facility;
- (c) Verification of current receipt of general assistance, temporary assistance for needy families, refugee resettlement benefits, food stamps, supplemental security income, or Medicaid; or
- (d) Submission and approval of the department's "Application for Waiver of Hearing Fee" form;
- (11) Failure to timely submit a hearing request and/or failure to include the filing fee or application for waiver with the hearing request shall be deemed a waiver of the petitioner's right to a hearing; and
- (12) If a request for hearing is denied, the department shall notify the petitioner and the petitioner's legal representative, if any, stating the reason(s) for denial.

#### **NEW SECTION**

#### WAC 308-103-050 Scheduling—Notice of hearing.

- (1) Upon receipt of a request for a hearing, the department shall schedule a telephone hearing to be held within sixty days following arrest, or sixty days following the date notice of the department's intention to suspend, revoke, or deny the petitioner's license, permit, or privilege to drive is given in the event notice is given by the department following a blood test.
- (2) The petitioner or petitioner's legal representative may state a preferred range of hearing dates or unavailable dates. To the extent that such requests can be accommodated within the applicable time limits and hearing officer availability, the department will attempt to do so.
- (3) The department shall provide ten days written notice to the petitioner or petitioner's legal representative of the scheduled date and time of the hearing.
- (4) The department's scheduling notice will include the assigned hearing office(r)'s name, address, and phone number; a statement of the issues; the procedure for requesting subpoena(s); the policy on continuances; and other information concerning the administrative hearing. The department's notice will also include a telephone number and a TDD number that any party or witness may call to request special accommodations.
- (5) The petitioner or petitioner's legal representative may request that all or part of the hearing be conducted "in person." Such request should be directed to the assigned hearing office(r) immediately upon receipt of the scheduling notice. The hearing office(r) will have the sole discretion to grant or deny this request, and may require a waiver of the sixty-day hearing requirement as a condition to granting the request. Considerations will include whether the hearing officer can be available in the petitioner's county of arrest on the scheduled date of the hearing, the number and location of witnesses, and the basis of this request.
- (6) Each party shall ensure that his or her address and telephone number on file is correct and shall immediately notify the department and/or hearing officer of any change of address or telephone number that occurs during the course of the proceeding.
- (7) The administrative hearing may be reassigned to a different hearing officer without notice to the parties because of scheduling conflicts, illness, injuries, unavailability, or emergencies.

#### **NEW SECTION**

WAC 308-103-060 Notice of appearance. If a petitioner has legal representation at the administrative hearing, the department shall be provided with the legal representative's name, address, and telephone number. The department may require the legal representative to file a written notice of appearance or to provide documentation that an absent petitioner has authorized the legal representative to appear on the party's behalf. The legal representative shall file a written notice of appearance and shall file a notice of withdrawal upon withdrawal of representation.

- WAC 308-103-070 Continuances. (1) After a hearing has been scheduled, it may be continued, rescheduled, or adjourned only at the discretion of the hearing officer.
- (2) Requests for a continuance, reschedule, or adjournment must be made in writing, to the assigned hearing officer, and shall include the basis for the request.
- (3) Except in the case of an emergency, the hearing officer must receive the continuance request at least two business days before the scheduled hearing. Absent an emergency, requests made with less than two business days' notice may be summarily denied.
- (4) The hearing officer may grant a continuance, adjournment, or reschedule at any time, including on the date of the administrative hearing.
- (5) Hearings that are continued, rescheduled, or adjourned may be re-set to a date within sixty days of the driver's arrest, or within sixty days of the date notice of the department's intention to suspend, revoke, or deny the petitioner's license, permit, or privilege to drive is given in the event notice is given by the department following a blood test, unless a written waiver of the sixty-day hearing requirement of RCW 46.20.308 accompanies the written continuance request, or unless the petitioner is deemed to have "waived" the statutory time frame.
- (6) A petitioner is deemed to have waived the statutory requirement that the hearing be held within sixty days if petitioner requests an action that cannot be accommodated within the sixty-day period.
- (7) A party shall not consider a hearing continued, rescheduled, or adjourned until notified by the hearing officer that the request has been granted.
- (8) The hearing officer may require the party who requests a continuance, reschedule, or adjournment to submit documentary evidence that substantiates the reason for the request.
- (9) A second request for a continuance, reschedule, or adjournment will only be granted in the event of an extreme emergency.

#### **NEW SECTION**

WAC 308-103-080 Deferred prosecutions—Withdrawals. (1) In the event a petitioner elects to seek a deferred prosecution and is eligible for a stay of the administrative suspension, the petitioner shall notify the assigned hearing officer and file a notice of intent to seek deferred prosecution. Upon doing so, the hearing officer will make a determination whether any hearing scheduled in the matter should be canceled and the petitioner's temporary license, if eligible, should be extended as provided by WAC 308-103-170. If, for any reason, the petitioner does not obtain an order of deferred prosecution from the court, the department will set a new hearing date only if the petitioner requests a hearing by contacting the original hearing officer no later than one hundred thirty days from the date of the arrest, and prior to the expiration of the temporary license. In the absence of such a timely request, the petitioner waives his or her right to a hearing and the department will issue the previously stayed order of suspension or revocation.

(2) If the petitioner elects to withdraw his or her request for a hearing, he or she shall notify the department in writing of his or her intent to do so. Upon receiving such a request for a withdrawal, the department shall proceed with the administrative action against the petitioner's driving license.

#### **NEW SECTION**

WAC 308-103-090 Subpoenas. (1) Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 46.20.308(8). All subpoenas shall direct the witness to appear by telephone unless otherwise agreed to by the hearing officer.

- (2) Every subpoena shall be signed and issued by a hearing officer and shall identify the party requesting the issuance of the subpoena and shall state the name of the agency and the title of the proceeding and shall command the person to whom it is directed to appear in person or telephonically and give testimony or produce designated books, documents, or things under his or her control.
- (a) A subpoena to a person to provide testimony at a hearing shall specify the time and place set for hearing.
- (b) A subpoena duces tecum requesting a person to produce designated books, documents, or things under his or her control shall specify a time and place for producing the books, documents, or things. That time and place may be the time and place set for hearing, or another reasonably convenient time and place in advance of the hearing.
- (3) A subpoena may be served by any suitable person over eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any person other than an officer authorized to serve process, proof of service shall be made by affidavit or declaration under penalty of perjury. Service of a subpoena on a law enforcement officer may be effected by serving the subpoena upon the officer's employer.
- (4) The hearing officer may condition issuance of the subpoena upon advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.
- (5) A subpoena must be properly served ten days prior to the date of the hearing, excluding weekends and holidays, in order to have full force and effect.

#### **NEW SECTION**

WAC 308-103-100 Evidence—Exhibits. (1) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of these rules.

(2) When portions only of a document are to be relied upon, the offering party shall identify the pertinent excerpts and state the purpose for which such materials will be offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

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- (3) The refusal of a witness to answer any question which has been ruled to be proper shall, in the discretion of the hearing officer, be ground for striking all testimony previously given by such witness on related matter.
- (4) Evidence is admissible if received prior to, or during, the hearing.

WAC 308-103-110 Evidence—Video tapes. (1) If a video tape is submitted by a law enforcement officer, the officer shall submit two copies.

(2) If the petitioner wishes to submit a video tape as evidence, the petitioner shall be responsible for the costs of preparing a copy to be admitted as evidence. Video tapes shall be submitted sufficiently in advance of the hearing to allow the hearing officer the opportunity to review the tape prior to the hearing. The hearing officer may require a time waiver from the petitioner in order to reschedule the hearing and satisfy this provision when needed.

#### **NEW SECTION**

WAC 308-103-120 Evidence. (1) The hearing officer shall rule on the admissibility and weight to be accorded to all evidence submitted at the hearing. The admissibility of evidence shall be liberally construed to effect the intent and purpose of the hearings covered by these rules.

(2) Law enforcement officers or other persons with knowledge relevant to the hearing may appear and testify without notice. Such testimony shall not preclude the admissibility of any documents submitted.

#### **NEW SECTION**

WAC 308-103-130 Interpreters. (1) When an impaired person as defined in chapter 2.42 RCW or a non-English-speaking person as defined in chapter 2.43 RCW is a party or witness in an adjudicative proceeding, the department shall appoint an interpreter to assist the party or witness during the hearing. Appointment, qualifications, waiver, compensation, visual recording, and ethical standards of interpreters in hearings are governed by the provisions of chapters 2.42 and 2.43 RCW.

- (a) If a hearing impaired person is a party or witness to an adjudicative proceeding, a qualified interpreter shall be appointed to interpret the proceedings. Under RCW 2.42.050, a "qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf.
- (b) Whenever an interpreter is appointed to assist a non-English-speaking person, a qualified or certified interpreter shall be appointed to assist the person during the hearing. Under RCW 2.43.020, a "qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for a non-English-speaking person. A "certified interpreter" means an interpreter who is certified by the office of the administrator for the courts.
- (2) Relatives of any participant in a proceeding and employees of the department involved in a proceeding shall

not be appointed as interpreters in the proceeding unless authorized by the petitioner.

- (3) Mode of interpretation:
- (a) The consecutive mode of foreign language interpretation shall be used unless the hearing officer and interpreter agree that simultaneous interpretation will advance fairness and efficiency;
- (b) Interpreters for hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode that the interpreter considers to provide the most accurate and effective communication with the hearing impaired person;
- (c) When an impaired or non-English-speaking person is a party to a proceeding, the interpreter shall translate all statements made by other hearing participants, unless waived by the petitioner. The hearing officer shall ensure that sufficient extra time is provided to permit translation and the hearing officer shall ensure that the interpreter translates the entire proceeding to the party to the extent that the party has the same opportunity to understand all statements made during the proceeding as a non-impaired or English-speaking party listening to un-interpreted statements would have.
- (4) The department shall pay interpreter fees and expenses.
- (5) Every interpreter shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the hearing officer conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

#### **NEW SECTION**

WAC 308-103-140 Testimony under oath or affirmation. Every person called as a witness and who is giving oral testimony in a hearing shall swear or affirm that the testimony he or she is about to give in the hearing shall be the truth according to the provisions of RCW 5.28.020 through 5.28.060. If the witness is testifying from outside the jurisdiction, the hearing officer may require the witness to agree to be bound by the laws of the state of Washington for purposes of the oath or affirmation.

#### **NEW SECTION**

WAC 308-103-150 Conduct of hearings. Hearings are open to public observation. To the extent that a hearing is conducted by telephone or other electronic means, the availability of public observation is satisfied by giving members of the public an opportunity to hear or inspect the agency's record. The hearing officer's authority includes, but shall not be limited to, the authority to:

- (1) Determine the order of presentation of evidence;
- (2) Administer oaths and affirmations;
- (3) Issue subpoenas pursuant to RCW 46.20.308(8);
- (4) Rule on procedural matters, objections, and motions;

- (5) Rule on offers of proof and receive relevant evidence;
- (6) Order the exclusion of witnesses upon a showing of good cause;
- (7) Afford the petitioner the opportunity to respond, present evidence, conduct cross-examination, and submit rebuttal evidence. The hearing officer may question witnesses to develop any facts deemed necessary to fairly and adequately decide the matter;
- (8) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by the petitioner;
  - (9) Examine the official records of the department;
- (10) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;
- (11) Permit or require oral argument or briefs and determine the time limits for submission thereof:
  - (12) Issue an order of default:
- (13) Recess the hearing to a later time to accommodate scheduling conflicts. Hearings are ordinarily scheduled to be one hour in length;
- (14) Take any other action necessary and authorized by any applicable statute or rule; and
- (15) Waive any requirement of these rules unless petitioner shows that he or she would be prejudiced by such a waiver.

WAC 308-103-160 Defaults. The petitioner or the petitioner's legal representative on petitioner's behalf is required to attend the hearing, either in person or by telephone. If that appearance is by telephone, the petitioner or the petitioner's legal representative must be available at the number provided to the department on the hearing request form and referenced in the scheduling letter, or as subsequently modified, at the time and date designated for the hearing on the scheduling letter sent by the department to the petitioner, or as subsequently re-scheduled. If the petitioner or petitioner's legal representative has not appeared within twenty minutes of the time scheduled for the hearing, the hearing officer shall enter an order of default. A default shall be deemed a withdrawal of the petitioner's request for a hearing and the action of the department on the petitioner's license shall be sustained.

#### **NEW SECTION**

WAC 308-103-170 Temporary license. A temporary license issued by a law enforcement officer pursuant to RCW 46.20.308 may be extended when:

- (1) A hearing is conducted and a decision on the outcome of the hearing is taken under advisement by the hearing officer;
- (2) A hearing is continued or rescheduled outside of the initial sixty-day effective period of the temporary license; or
- (3) Petitioner is seeking a deferred prosecution and requests an extension of the temporary license.

Extensions may be made to a maximum of one hundred fifty days from the date of arrest. Nothing contained herein shall effect the validity of any other action taken against the petitioner's driving privilege by the department, or authorize a petitioner to drive if his or her driving privilege has been suspended or revoked for other reasons.

#### **NEW SECTION**

WAC 308-103-180 Final order. Every decision and order shall:

- (1) Be correctly captioned as to the name of the department of licensing and name of the proceeding;
- (2) Designate all parties and representatives participating in the proceeding;
- (3) Contain a final order disposing of all contested issues and setting the effective date for the order; and
  - (4) Contain a statement describing the right to appeal.

#### **NEW SECTION**

WAC 308-103-190 Reconsideration and appeals. (1) The petitioner's rights to appeal are provided in RCW 46.20.308(9), and nothing herein is intended to detract from that statute.

- (2) Grounds for a petition for reconsideration are limited to evidence or legal argument which are material to the petitioner and that by the exercise of reasonable diligence the petitioner or petitioner's legal representative did not and could not have produced at the time of the hearing, or for other good and sufficient reason as determined by the hearing officer.
- (3) The petition must state with particularity any new evidence or new legal argument that is proposed and why it was not available at the time of the hearing. The petition must specify with particularity the portions of the initial order to which the petition applies.
- (4) A petition for reconsideration of a final order shall be filed with the hearing officer who signed that final order, within ten days of the date that the hearing officer signed it.
- (5) The petition shall be disposed of by the hearing officer who entered the original final order, if reasonably available. The disposition shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further hearing.
- (6) If the petition is granted in whole or in part, a new order shall be issued in the same form as the original order, and shall include the designation "amended" in its title. This amended order shall reference the petition for reconsideration in its preamble, which sets out what the hearing officer considered. Any amended order shall include the "Findings of Fact and Conclusions of Law" from the original final order with amendments.
- (7) The relief granted pursuant to a petition for reconsideration is limited to review of the designated evidence and/or argument as identified in the petition. At the hearing officer's discretion, a supplemental hearing may be scheduled. Such a petition is not grounds for a new hearing, and the record already established shall remain undisturbed.

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- (8) A petition for reconsideration does not stay the department's action on the petitioner's driving privilege as ordered by the original final order. A petitioner seeking a stay must file a separate petition for that purpose. The hearing officer will grant a stay only if the hearing officer determines that it is likely that the petitioner will prevail and the action be reversed and that denying the stay will create irreparable harm to the petitioner. If the hearing officer grants such a petition for a stay, the hearing officer shall sign an order releasing the action and crediting any time already served, and subsequently sign an order sustaining or reversing the action, as determined by the amended final order. Disposition denying a stay is not subject to review.
- (9) An amended final order shall issue either denying reconsideration or, in the event reconsideration is granted, dissolving or modifying the original final order. The date of the amended final order begins the thirty-day period for the petitioner to appeal the amended final order, and there is no longer a right to appeal the original final order.
- (10) The filing of a petition for reconsideration is not a prerequisite for filing an appeal. An order denying reconsideration is not subject to appeal.

AMENDATORY SECTION (Amending Order MV-141, filed 7/27/72)

WAC 308-08-600 Scope of rules—Formal hearings—Discretionary suspension—Driver's licenses. The following rules numbered WAC 308-08-610 through 308-08-660 shall apply only to formal hearings held pursuant to RCW 46.20.329. They shall not apply to hearings held pursuant to chapter 308-103 WAC (implied consent revocations) or hearings under the provisions of chapter 308-102 WAC (the financial responsibility act).

### WSR 02-11-019 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed May 6, 2002, 8:27 a.m.]

Date of Adoption: May 1, 2002.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-94-050.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 02-07-024 on March 12, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 1, 2002 Fred Stephens Director

AMENDATORY SECTION (Amending WSR 01-11-070, filed 5/14/01, effective 6/14/01)

WAC 308-94-050 Snowmobile registration, decals and validating tab—Display. (1) Where do I carry the snowmobile registration certificate? A snowmobile registration certificate must be:

- (a) Carried in the snowmobile for which it was issued; or
- (b) Carried on the person of the snowmobile operator; and
- (c) Be made available for inspection by any person having the authority to enforce the provisions of the snowmobile act.
  - (2) How are snowmobile decals/tabs displayed?
- (a) Decals showing the registration numbers must be affixed to the right and left ((sides or on the front and rear of each)) side of the snowmobile <u>directly</u> below the windshield on the hood cowling and located so that snow, passenger, driver or load will not obscure them.
- (b) The month tabs must be located no more than two inches ((in front)) to the left of the first digit of the decal showing the registration number. Validating year tab must be located no more than two inches from the last digit of the decals showing the registration number on the left side.

### WSR 02-11-022 PERMANENT RULES DEPARTMENT OF HEALTH

[Filed May 7, 2002, 10:33 a.m.]

Date of Adoption: April 25, 2002.

Purpose: Updates language to correctly reflect RCW 18.92.145. Veterinary medication clerks are registered, not certified.

Citation of Existing Rules Affected by this Order: Amending WAC 246-937-010, 246-937-020, 246-937-030, 246-937-040, 246-937-050, 246-937-060, 246-937-070, 246-937-090, and 246-937-110.

Statutory Authority for Adoption: RCW 18.92.030.

Other Authority: RCW 18.92.145.

Adopted under notice filed as WSR 02-02-044 on December 27, 2001.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 25, 2002 Gail Zimmerman Executive Director

#### Chapter 246-937 WAC

#### ((CERTIFIED)) REGISTERED VETERINARY MEDI-CATION CLERKS

AMENDATORY SECTION (Amending WSR 95-04-083, filed 1/31/95, effective 3/3/95)

WAC 246-937-010 Definitions. (1) "((Certified)) Registered veterinary medication clerk" means any person who has met the requirements for ((certification)) registration as established by the veterinary board of governors (board) and WAC 246-937-040.

- (2) "Direct supervision" means the supervising licensed veterinarian is on the premises and is quickly and easily available.
- (3) "Indirect supervision" means the supervising licensed veterinarian is not on the premises, but has given either written or oral instructions regarding policies and procedures for the handling of legend drugs.
- (4) "On-the-job training program" means a program following the guidelines approved by the board.
- (5) "Supervising veterinarian" means the licensed veterinarian who is responsible for closely supervising the ((eertified)) registered veterinary medication clerk while ((he or she is)) performing daily duties.
- (6) "Sponsoring veterinarian" means the licensed veterinarian who is responsible for ((the)) training and reviewing the work of a ((eertified)) registered veterinary medication clerk. An appropriate degree of supervision is involved.

AMENDATORY SECTION (Amending WSR 95-04-083, filed 1/31/95, effective 3/3/95)

WAC 246-937-020 Responsibility for supervision. Licensed veterinarians are responsible and accountable for the ordering, inventory, labeling, counting, packaging and delivery of legend drugs utilized in their practice. In accordance with chapter 18.92 RCW, certain nondiscretionary pharmaceutical tasks may be delegated by a veterinarian to a qualified nonveterinarian. The delegating veterinarian is

responsible for the supervision of pharmaceutical tasks performed by veterinary medication clerks and ((registered animal)) veterinary technicians. Records shall be maintained that account for the receipt and disposition of all legend drugs. A ((eertified)) registered veterinary medication clerk may be supervised by a licensed veterinarian other than ((his or her)) the sponsor subject to the sponsoring veterinarian's approval. The sponsoring veterinarian shall be primarily responsible for the performance and acts of ((his or her certified)) the registered veterinary medication clerk.

AMENDATORY SECTION (Amending WSR 95-04-083, filed 1/31/95, effective 3/3/95)

#### WAC 246-937-030 Tasks and prohibited functions.

- (1) A ((eertified)) registered veterinary medication clerk may perform the following tasks only under the direct supervision of a licensed veterinarian: Counting, labeling, and packaging of legend drugs. A licensed veterinarian must personally inspect all packaged medication orders to ensure the accuracy of the order prior to delivery to the client. The licensed veterinarian will document the medication inspection by placing his/her initials in the patient's record.
- (2) A ((eertified)) registered veterinary medication clerk may perform the following tasks under the indirect supervision of a licensed veterinarian: Ordering, stocking, inventorying, and the delivery of legend drugs. The identity of the client ((shall)) must be confirmed before the delivery of legend drugs.
- (3) The following functions ((shall)) <u>must</u> not be delegated by a licensed veterinarian to a ((eertified)) <u>registered</u> veterinary medication clerk:
- (a) Consultation with a client regarding the medication order and/or any information involving professional clinical judgment.
- (b) Dispensing any medication. The medication must be recorded in the patient's record by the authorizing veterinarian.
- (c) Extemporaneous compounding of a medication order.
  - (d) Interpretation of data in a patient record.
- (e) Final inspection of a completed medication order as described in WAC 246-937-030(1).
- (f) Any duties required by law to be performed by a licensed veterinarian.
- (g) Any ordering, accountability, packaging, or delivery of controlled substances as defined in or under chapter 69.50 RCW.

AMENDATORY SECTION (Amending WSR 95-04-083, filed 1/31/95, effective 3/3/95)

WAC 246-937-040 Training and education. (1) The training of veterinary medication clerks ((shall)) <u>must</u> be obtained by completion of an on-the-job training program following guidelines approved by the board.

(2) The minimum educational requirement ((shall)) <u>must</u> be high school graduation or equivalency.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-937-050 Applications. In addition to the requirements of chapter 246-12 WAC, Part 2, the application ((will)) must be signed by the sponsoring veterinarian attesting that the applicant is qualified to perform the responsibilities of a ((eertified)) registered veterinary medication clerk and is familiar with the procedures and policies of the practice. ((Certification)) Registration is valid only for employment at the veterinary practice identified in the application and/or pursuant to WAC 246-937-020.

AMENDATORY SECTION (Amending WSR 95-04-083, filed 1/31/95, effective 3/3/95)

WAC 246-937-060 Transfer of registration. In the event that a ((eertified)) veterinary medication clerk who is currently registered, desires to be sponsored by another licensed veterinarian, application for transfer of registration ((to a new sponsoring veterinarian shall)) must be made on forms provided by the board and be subject to the board's approval.

AMENDATORY SECTION (Amending WSR 95-04-083, filed 1/31/95, effective 3/3/95)

WAC 246-937-070 Termination of sponsorship. Upon termination of the working relationship, between the ((eertified)) registered veterinary medication clerk and the sponsoring veterinarian, the sponsoring veterinarian shall notify the board in writing.

AMENDATORY SECTION (Amending WSR 95-04-083, filed 1/31/95, effective 3/3/95)

WAC 246-937-090 Grounds for denial, suspension, or revocation of registration. The board may suspend, revoke or deny the issuance or renewal of ((eertification)) registration of any ((applicant and/or certified)) veterinary medication clerk and file its decision in the secretary's office if the ((applicant and/or certified)) veterinary medication clerk:

- (1) Has employed fraud or misrepresentation in applying for or obtaining the ((eertification)) registration;
- (2) Has within ten years prior to the date of application been found guilty by any court of competent jurisdiction of violation of laws relating to the practice of veterinary medicine, surgery and dentistry, including, but not limited to:
- (a) State or federal laws relating to the regulation of drugs;
  - (b) Chronic inebriety;
  - (c) Cruelty to animals;
- (3) Has violated or attempted to violate any provision of chapter 18.92 RCW or any rule or regulation adopted pursuant to that chapter;
- (4) Has assisted, abetted or conspired with another person to violate chapter 18.92 RCW, or any rule or regulation adopted pursuant to that chapter;

(5) Has performed any animal health care service not authorized by WAC 246-937-030.

# WSR 02-11-030 PERMANENT RULES LIQUOR CONTROL BOARD

[Filed May 7, 2002, 3:59 p.m.]

Date of Adoption: May 1, 2002.

Purpose: The purpose of the rule making is to create a chapter of rules, chapter 314-21 WAC, to implement SB 5604, passed by the 2001 legislature, which allows retail liquor licensees to use eighteen, nineteen, or twenty year old persons to participate in in-house controlled purchase programs as authorized by the Liquor Control Board under rules adopted by the agency.

Statutory Authority for Adoption: RCW 66.08.030, 66.44.290.

Adopted under notice filed as WSR 02-04-112 on February 6, 2002.

Changes Other than Editing from Proposed to Adopted Version:

- The rules now refer to "persons" participating in controlled purchase programs, as opposed to "employees." This change was made to reflect the intention of the guiding statute, RCW 66.44.290, which allows licensees to contract with a third party to conduct in-house controlled purchase programs. The rules continue to state that the licensee is responsible to ensure the controlled purchase programs are conducted under the guidelines of RCW 66.24.290 and chapter 314-21 WAC.
- Language was added to WAC 314-21-005(3) to clarify
  that when the rule and its guiding statute state that "violations occurring under an in-house controlled purchase program may not be used for criminal prosecution or administrative action," "administrative action"
  refers to action against a licensee by the Liquor Control
  Board.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 3, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 3, 2002 Merritt D. Long Chair

#### **NEW SECTION**

WAC 314-21-005 What is an in-house controlled purchase program? (1) Per RCW 66.44.290, an in-house controlled purchase program is a program that allows retail liquor licensees to use eighteen, nineteen, or twenty year old persons to attempt to purchase alcohol for the purpose of evaluating the licensee's training program regarding the sale of liquor to persons under twenty-one years of age.

- (2) The licensee's controlled purchase program must meet the requirements of RCW 66.44.290, WAC 314-21-015, and WAC 314-21-025.
- (3) Per RCW 66.44.290, violations occurring under an in-house controlled purchase program may not be used for criminal prosecution or administrative action by the liquor control board.

#### **NEW SECTION**

WAC 314-21-015 How can liquor licensees receive approval to conduct an in-house controlled purchase program? A retail liquor licensee must receive prior written approval from the liquor control board's enforcement and education division before conducting an in-house controlled purchase program.

- (1) The board's approval will be based on the licensee submitting a written plan that meets the requirements outlined in RCW 66.44.290 and chapter 314-21 WAC.
- (2) It will take up to twenty days for the licensee to receive written approval from the liquor control board's enforcement and education division once the licensee submits a properly completed written request, therefore the licensee must submit his/her request in writing to the board's enforcement and education division at least twenty working days prior to the first controlled purchase program.
  - (3) The written request must contain:
- (a) The location(s) at which the licensee would like to conduct controlled purchase programs.
- (b) The name and contact telephone number(s) of the person who will be on the premises supervising the control purchased program, who must be at least twenty-one years of age.
- (c) The licensee's written procedures for their in-house controlled purchase program, which must address all of the guidelines in WAC 314-21-025.

#### **NEW SECTION**

WAC 314-21-025 What are the guidelines for controlled purchase programs? A retail liquor licensee may conduct an in-house controlled purchase program under the following conditions:

(1) The licensee must keep a statement on file signed by the licensee and each employee indicating that the employee has received training regarding the sale of liquor to persons under twenty-one years of age. Restaurant, tavern, or sports/entertainment facility licensees must keep on file either such a statement for each employee or a copy of the employee's mandatory alcohol server training permit. These records must be maintained on the licensed premises, available for inspection by the board, unless otherwise approved in writing by the liquor control board's enforcement and education division.

- (2) During an in-house controlled purchase program, the person supervising the program must possess:
- (a) the licensee's controlled purchase program procedures,
- (b) the board's written approval of the in-house controlled purchase program, and
- (c) valid identification (see WAC 314-11-025 for a list of acceptable identification).
- (3) The persons participating in the in-house controlled purchase program must be at least eighteen years of age.
- (4) The persons participating in the in-house controlled purchase program may not use fraudulent identification and should not be deceptively mature in appearance.
- (5) The licensee must ensure that two photos are taken of the persons participating in the in-house controlled purchase program on the day of the program. One photo must be full face and one photo must show the employee from head to toe. These photos must be maintained on the licensed premises, available for inspection by the board.
- (6) If persons participating in the in-house controlled purchase program are paid for their time, the compensation of such persons may not be based on the number of successful purchases made during the course of the in-house controlled purchase program.
- (7) The licensee must have written procedures that ensure any liquor purchased by an eighteen, nineteen, or twenty year old person during an in-house controlled purchase program is adequately secured by the licensee or an employee who is at least twenty-one years of age immediately following an occurrence of any purchase.
- (8) Per RCW 66.44.290, the licensee must provide his/her employees a written description of the employer's inhouse controlled purchase program, which must include a notice of action an employer may take as a consequence of an employee's failure to comply with the employer's policies regarding the sale of alcohol during an in-house controlled purchase program.
- (9) Per RCW 66.44.290, a licensee may not terminate an employee solely for a first-time failure to comply with the licensee's policies regarding the sale of alcohol during an inhouse controlled purchase program.
- (10) If a licensee's controlled purchase program fails to meet any of the requirements of RCW 66.44.290, WAC 314-21-015, or WAC 314-21-025, the board may revoke its approval to conduct in-house controlled purchase programs. The licensee may reapply for approval to conduct in-house controlled purchase programs not less than one year following the board's revocation of approval.

Permanent [34]

# WSR 02-11-033 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed May 7, 2002, 4:22 p.m.]

Date of Adoption: May 2, 2002.

Purpose: The rules have been amended to simplify and to clarify existing requirements governing state supplemental payments.

Citation of Existing Rules Affected by this Order: Amending WAC 388-474-0001, 388-474-0005, 388-474-0010, 388-474-0015, and 388-474-0020.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Other Authority: RCW 74.04.630.

Adopted under notice filed as WSR 02-07-115 on March 20, 2002.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-478-0055 and 388-474-0012 were withdrawn from proposed rules filed as WSR 02-07-115. The changes were made because the state legislature changed the direction of policy for budgetary reasons before the filing was complete.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 2, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-06-042, filed 3/5/01, effective 4/5/01)

WAC 388-474-0001 ((General information—)) What is Supplemental Security Income((+)) (SSI) and who can get it? (1) ((Persons with limited income and resources who are aged, blind, or disabled may qualify for)) SSI is a federal cash benefit((s under the Supplemental Security Income program (SSI))) program administered by the Social Security Administration (SSA) under Title XVI of the Social Security Act.

- (2) You can get SSI if you have limited income and resources and if you are:
  - (a) Aged (sixty-five and older);

- (b) Blind; or
- (c) Disabled.
- (3) The SSI program replaced state programs for aged, blind and disabled persons beginning in January 1974. ((Persons who)) If you received state assistance in December 1973((, as aged, blind or disabled or were needed in the home to care for an eligible person, automatically)) and you became eligible for SSI in January 1974((. The blind or disabled)), you are called a grandfathered ((elients)) client by the state and a mandatory income level (MIL) client by SSI. You must continue to meet the definition of blind or disabled that was in effect under the state plan in December 1973. These definitions can be found in the SSA program operations manual system (POMS), see http://policy.ssa.gov/ poms.nsf. ((A person designated in January-1974 as essential to the care of a grandfathered-SSI client will continue to be included in the SSI payment as long as the essential person continuously resides with the SSI client.
- (3) The spouse of an SSI recipient who does not qualify for SSI in their own right may be included in the state supplement payment but is not considered an SSI recipient for purposes of medical assistance eligibility))
- (4) If you are needed in the home to care for an eligible person, you are called an essential person. You are also called a grandfathered client.
- (5) If you are an essential person you must have lived continuously with the eligible person since January 1974.
- (6) If you are an SSI recipient and you have a spouse who does not qualify for SSI in their own right, you may be eligible for a state supplemental payment for your spouse (also referred to as an ineligible spouse).

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-474-0005 What medical coverage((\*\*)) does a Supplemental Security Income client, essential person, and an ineligible spouse get? (1) If you are an SSI ((recipient qualifies for)) client you automatically get categorically needy (CN) medical coverage ((without a medical determination, except when the SSI recipient)) (WAC 388-505-0110) unless you:

- (a) ((Refuses)) Refuse to provide private medical insurance information; or
- (b) Refuse to assign the right to recover insurance funds to the department((;
- (b) Disposes of resources for less than fair market value and then applies for Medicaid coverage of nursing home care within thirty months of the date of transfer; or
- (e) Has a Medicaid qualifying trust)) (WAC 388-505-0540).
- (2) ((A person designated as)) If you are an essential person as described in ((January, 1974, qualifies for)) WAC 388-474-0001 you get CN medical coverage as long as ((they)) you continue to ((reside)) live with the SSI ((recipient)) client.
- (3) ((The spouse of an SSI recipient designated as an)) If you are an ineligible spouse ((must have medical eligibility separately determined when:

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- (a) They do not automatically qualify for medical coverage in subsection (2) above; or
  - (b) They are not eligible for SSI in their own right.
- (4) Persons who are not receiving SSI, but are SSI-related and qualify for CN medical assistance are described in WAC 388 505-0110)) you are not considered an SSI recipient. You must have your medical assistance determined separately.

AMENDATORY SECTION (Amending WSR 01-19-023, filed 9/12/01, effective 11/1/01)

WAC 388-474-0010 How does being a Supplemental Security Income (SSI) client affect ((eligibility for)) your cash assistance ((programs?)) eligibility? ((A person who is)) (1) If you are married to an SSI recipient but ((eannot)) do not get SSI in ((their own right is)) your own right, you are called an "ineligible spouse."

(((1))) (2) If you are an ineligible spouse((5)) you cannot get the SSI state supplement (((see WAC 388-478-0055) if)) when you are:

- (a) The caretaker relative of a child who receives TANF or SFA; and
- (b) Required to be included in the TANF or SFA assistance unit with the child ((under-WAC 388-408-0015.
  - (2))) (see WAC 388-408-0015; or
  - (c) Receiving refugee assistance.
- (3) If you are an ineligible spouse and ((are eligible for the)) get an SSI state supplement (WAC 388-474-0012), you ((are not eligible for)) cannot get general assistance ((benefits)) (GA).

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-474-0015 ((Termination of)) What happens to my categorically needy (CN) medical coverage when my Supplemental Security Income (SSI((-))) cash payment is terminated? (1) ((A person terminated from SSI eash assistance will have)) Your CN medical coverage ((eontinued)) (WAC 388-505-0110) continues after an SSI cash payment ends when:

- (a) Countable income exceeds the SSI income standard due solely to the annual cost-of-living adjustment (COLA);
- (b) A timely request for a hearing has been filed. ((Categorically needy)) <u>CN</u> medical coverage is continued until <u>Social Security Administration (SSA)</u> makes a final decision on the hearing request and on any subsequent timely appeals.
- (2) ((A person terminated from SSI is eligible for continued CN)) If your SSI ends your CN medical coverage continues for a period of up to one hundred twenty days ((from the date of termination of SSI cash benefits)) while the department reviews your eligibility for other cash or medical programs ((is being determined)).
- (3) If you are a terminated SSI or SSI-related client, the department will ((have their)) your disability ((redetermined under certain conditions. These conditions are:
  - (a) The person presents)) status when:

- (a) You present new medical evidence;
- (b) ((The person's)) Your medical condition changes significantly; or
- (c) ((The)) Your termination from SSI was not based on a review of current medical evidence.
- (4) Children terminated from SSI due to loss of <u>disabled</u> status ((as a <u>disabled person</u>)) may be eligible for medical benefits under WAC 388-505-0210.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-474-0020 ((Duplicate)) What can a general assistance ((and overpayments.))-unemployable (GA-U) client expect when Supplemental Security Income (SSI) benefits begin? (((1) Persons receiving eash benefits under the general assistance program who receive advance, emergency or retroactive SSI cash assistance for the same time period are considered to have received duplicate assistance. The amount of general assistance paid during this time period must be repaid to the department.

- (2) Applicants for general assistance unemployable (GA U) are required to)) You can only get assistance to meet your basic needs from one government source at a time (WAC 388-448-0210). If you are a GA-U client who begins setting SSI, you should know that:
- (1) If you got advance, emergency or retroactive SSI cash assistance for any period where you got GA-U, you must repay the department the amount of GA-U paid to you for the matching time period.
- (2) When you apply for GA-U you must sign DSHS 18-235(X), interim assistance reimbursement agreement (IARA) ((as a condition of eligibility for)) to get GA-U assistance.
- (3) You cannot use your GA-U ((funds cannot be used)) money to replace money deducted from ((a person's)) your SSI check ((by SSA)) to repay an <u>SSI</u> overpayment ((of SSI benefits)).

### WSR 02-11-048 PERMANENT RULES CASCADIA COMMUNITY COLLEGE

[Filed May 9, 2002, 10:25 a.m.]

Date of Adoption: April 1, 2002.

Purpose: To adopt traffic and parking rules specifically for the colocated Cascadia Community College/University of Washington, Bothell campus. Since both institutions share the same campus location and parking infrastructure, the identical new rules are being filed separately - as chapter 132Z-116 WAC for Cascadia Community College and chapter 478-117 WAC for University of Washington, Bothell.

Statutory Authority for Adoption: RCW 28B.50.140(10).

Adopted under notice filed as WSR 02-03-089 on January 18, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 26, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 26, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 26, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 7, 2002

Victoria Munoz Richart, Ed.D.

President

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-12 issue of the Register.

### WSR 02-11-054 PERMANENT RULES LIQUOR CONTROL BOARD

[Filed May 9, 2002, 4:49 p.m.]

Date of Adoption: May 7, 2002.

Purpose: Chapter 314-11 WAC was rewritten in March of 2001, and the agency has found that several technical changes are needed for clarification.

Citation of Existing Rules Affected by this Order: Amending WAC 314-11-015, 314-11-020, 314-11-030, 314-11-035, 314-11-040, 314-11-045, 314-11-060, 314-11-065, 314-11-070, and 314-11-095.

Statutory Authority for Adoption: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, and 66.44.350.

Adopted under notice filed as WSR 02-04-110 on February 6, 2002.

Changes Other than Editing from Proposed to Adopted Version:

- The agency is withdrawing its proposed changes to WAC 314-11-025, which outlines acceptable forms of ID to verify age for alcohol sales, in order to consider additional changes to this rule.
- Added language to WAC 314-11-015, which outlines general responsibilities for liquor licensees, to cross reference to other rules that outline the penalties when a liquor licensee or a mandatory alcohol server training permit holder violates a liquor law or rule. Language was also added to this rule to state that, in addition to the licensee, employees also have the responsibility [to] follow liquor laws and rules.
- Added language to WAC 314-11-095, which outlines record-keeping requirements, to clarify that the records listed must be available if requested by the Liquor Control Board.

 Changed wording in WAC 314-11-072, which requires a licensed premises to be open to the general public whenever liquor is sold, served, or consumed, to clarify this rule applies to retail licensed premises.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 10, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 10, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 10, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 9, 2002 Merritt D. Long Chair

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-015 What are my responsibilities as a liquor licensee? (1)(a) Liquor licensees are responsible for the operation of their licensed premises in compliance with the liquor laws and rules of the board (Title 66 RCW and Title 314 WAC). Any violations committed or permitted by employees will be treated by the board as violations committed or permitted by the licensee.

(b) The penalties for violations of liquor laws or rules are in: WAC 314-12-300 through WAC 314-12-340, as now or hereafter amended, for licensees; and WAC 314-17-105 and WAC 314-17-110, as now or hereafter amended, for employees who hold mandatory alcohol server training permits. These rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a liquor law or rule.

- (2) Licensees and their employees also have the responsibility to conduct ((their)) the licensed premises in compliance with the following laws, as they now exist or may later be amended:
- Titles 9 and 9A RCW, the criminal code laws;
- Title 69 RCW, which outlines the laws regarding controlled substances; and
- Titles 70.155, ((and)) 82.24 RCW, and RCW 26.28.080 which outline laws regarding tobacco.
- (3) Licensees have the responsibility to control their conduct and the conduct of employees and patrons on the premises at all times. Except as otherwise provided by law, licensees or employees may not:
  - (a) Be disorderly or intoxicated on the licensed premises;

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- (b) Permit any disorderly person to remain on the licensed premises;
- (c) Engage in or allow behavior that provokes conduct which presents a threat to public safety;
- (d) Consume liquor of any kind while working on the licensed premises; except that:
- (i) Licensed beer manufacturers and their employees may sample beer of their own manufacture for manufacturing, evaluating or pricing product in areas where the public is not served, so long as the licensee or employee does not become apparently intoxicated;
- (ii) Licensed wine manufacturers and their employees may:
- (A) Sample wine for manufacturing, evaluating, or pricing product, so long as the licensee or employee does not become apparently intoxicated; and the licensee or employee who is sampling for these purposes is not also engaged in serving alcohol to the public; and
- (B) Sample wine of their own manufacture for quality control or consumer education purposes, so long as the licensee or employee does not become apparently intoxicated.
- (e) Engage in, or permit any employee or other person to engage in, conduct on the licensed premises which is prohibited by any portion of Titles 9, 9A, or 69 RCW; or
- (f) Sell or serve liquor by means of "drive-in" or by "curb service."
- (4) Licensees have the responsibility to control the interaction between the licensee or employee and their patrons. At a minimum, licensees or employees may not:
- (a) Solicit any patron to purchase any beverage for the licensee or employee, or allow a person to remain on the premises for ((the)) such purpose ((of soliciting a patron));
- (b) Spend time or dance with, or permit any person to spend time or dance with, any patron for direct or indirect compensation by a patron.
- (c) See WAC 314-11-050 for further guidelines on prohibited conduct.

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-020 What are the guidelines regarding sales to persons under twenty-one years of age and where persons under twenty-one are allowed on a licensed premises? (1) Per RCW 66.44.270, licensees or employees may not supply liquor to any person under twenty-one years of age, either for his/her own use or for the use of any other person.

- (2) Per RCW 66.44.310, licensees or employees may not allow persons under twenty-one years of age to remain in any premises or area of a premises classified as off-limits to persons under twenty-one. (See RCW 66.44.310 (1)(b) regarding nonprofit, private club licensees.)
- (3) ((On)) At the request of any law enforcement officer, a person must present a card of identification if the person is on a portion of a premises that is restricted to persons over twenty-one years of age, or if the person is purchasing liquor, attempting to purchase liquor, consuming liquor, or in the possession of liquor. If the person fails or refuses to present a

card of identification it will be considered a violation of Title 66 RCW and:

- (a) The person may not remain on the licensed premises after being asked to leave by a law enforcement officer; and
- (b) The person may be detained by a law enforcement officer for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth.

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-030 What if a person's identification meets the legal requirements but I still have doubts about his or her age? (1) Per RCW 66.20.190 and 66.20.210, if a patron presents proper identification as outlined in WAC 314-11-025 but the licensee or employee still has doubts about the patron's age, the licensee or employee may require the patron to sign a certification card. Certification cards are provided by the board's enforcement and education division.

(2) The certification card must be completely filled out and filed alphabetically by the licensee or employee by the close of business on the day used. Certification cards are subject to examination by any law enforcement officer.

RCW. 01-06-014, § 314-11-030, filed 2/26/01, effective 3/29/01.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-035 What are the rules regarding sales to apparently intoxicated persons? Per RCW 66.44.200, licensees or employees may not supply liquor to any person apparently under the influence of liquor, or allow an apparently intoxicated person to possess or consume liquor on the licensed premises.

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-040 What duties can an employee under twenty-one years of age perform on a licensed premises? A person must be twenty-one years of age or older to be employed in the sale, handling, or service of liquor, except as provided in this chapter.

(1) Per RCW 66.44.340 and RCW 66.44.350, persons between eighteen and twenty-one years of age may perform the following duties:

	Duties 18, 19, and 20		Duties 18, 19, and 20	
١		year((s)) old employees	years old employees may	
1		may perform <u>, as long as</u>	not perform	
		there is a person twenty-		
١		one years of age or older		
١		on duty supervising the		
1		sale of liquor		
	(a) In a grocery store or beer/wine spe- cialty shop:	Sell, stock, and handle beer and wine((- as long as there is a person twenty-one years of age or older on duty supervising the sale of liquor)); and  Deliver beer and/or	Supervise employees who sell, stock, or handle beer and/or wine.	
		wine to a customer's car with the customer (for the purposes of this rule, there is no minimum age requirement for an employee of a grocery store or a beer/wine speciality shop to deliver beer and/or wine to a customer's car with the customer).	·	
The state of the s	(b) In an estab- lishment that sells liquor for on-premises consumption:	Take orders for, serve, and sell liquor in areas classified as open to persons under twenty-one years of age; and  Enter areas designated as off-limits to persons under twenty-one years of age to perform duties such as picking up liquor for service in other parts of the establishment; cleaning up, setting up, and arranging tables; delivering messages; serving food; and seating patrons; provided the employee does not remain in the area any longer than is necessary to perform the duties.	Functions of a bartender, including:  Mixing drinks; Drawing beer or wine from a tap; Pouring beer or wine anywhere except at the patrons table; and Providing an employee spirits, beer by the pitcher or glass, or wine by the carafe or glass for delivery to a customer.	

- (2) Per RCW 66.44.316 and <u>RCW</u> 66.44.318, the following persons that are eighteen, nineteen, or twenty years of age may remain on licensed premises or portions of premises that are restricted from persons under twenty-one years of age, but only during the course of his or her employment:
- (a) Persons performing janitorial services during the hours when there is no sale, service, or consumption of liquor on the premises;
- (b) Employees of amusement device companies for the purpose of installing, maintaining, repairing, or removing any amusement device;
- (c) Security or law enforcement officers and fire fighters during the course of their official duties and if they are not the direct employees of the licensee; and
  - (d) Professional musicians, per WAC 314-11-045.

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-045 Can musicians under twenty-one years of age entertain on a licensed premises that is restricted to persons twenty-one or older? Per RCW 66.44.316 and 66.44.318, musicians, ((disk)) disc jockeys, and sound or lighting technicians paid by the licensee who are eighteen, nineteen, or twenty years of age may work in a licensed premises or a portion of a licensed premises that is restricted to persons twenty-one years of age or older, under the following conditions:

- (1) The <u>eighteen</u>, <u>nineteen</u>, <u>or twenty year-old</u> musicians must remain on the stage or bandstand during their performance, except:
  - (a) Strolling musicians; and
- (b) ((<del>Disk</del>)) <u>Disc</u> jockeys and sound and lighting technicians may remain in locations as required to actively support the professional musician or ((<del>disk</del>)) <u>disc</u> jockey.
- (2) The <u>eighteen</u>, <u>nineteen</u>, <u>or twenty year-old</u> musicians may not consume alcohol, and must have acceptable identification available for inspection at all times.
- (3) The <u>eighteen</u>, <u>nineteen</u>, <u>or twenty year-old</u> musicians are permitted on the licensed premises no more than one hour prior to the start of their performance and not more than one hour after their performance, in order to properly set up and secure their equipment.
- (4) During breaks, ((minor)) the eighteen, nineteen, or twenty year-old musicians may not remain in an area that is off-limits to persons under twenty-one years of age.

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-060 What are the mandatory signs a licensee must post on a licensed premises? (1) Notices regarding persons under twenty-one years of age must be posted on the premises as follows:

Type of licensee	Sign must contain the following language:	Required location of sign
Tavern licensees and spirits, beer, and wine licensees who do not allow persons under twenty-one years of age.	"Persons under twenty- one years of age not per- mitted on these pre- mises."	Conspicuous location at each entry to premises.
Restaurants that do not permit persons under twenty-one years of age on a portion of their premises.	"Persons under twenty- one years of age not per- mitted in this area."	Conspicuous location at each entry to a restricted area.

The board will provide the required notices, or licensees may design their own notices as long as they are legible and contain the required language.

(2) Signs provided by the board warning of the possible danger of birth defects which may be caused as a result of the consumption of alcohol during pregnancy, must be posted as follows:

Type of premises	Required location of sign	
Premises that serve alcohol for on-premises consumption (does not apply to self-service "mini-bars" in hotel guest rooms).	Posted in plain view at the main entrance to the liquor licensed portion of the estab- lishment, and in the women's public restrooms closest to the licensed area.	
Airports, convention centers, sports facilities, and other licensed premises that have more than one authorized location for alcohol service and consumption.	Posted in a place that is clearly visible to the majority of patrons entering the liquor licensed portion of the premises.	
Grocery store and beer/wine specialty shop licensees.	Posted at one or more of the following locations:  At each permanent display area of shelving and at coolers displaying alcohol beverages; and/or  At the cash register(s) where alcohol is sold; and/or  At the main entrance to the licensed premises.	
Breweries and wineries.	Posted in plain view at:  The main entrance to areas where alcohol is sold for off-premises consumption, and At the main entrance to all tasting areas.	

- (3) The premises' <u>current and valid</u> master license with appropriate endorsements must be conspicuously posted on the premises <u>and available for inspection by liquor enforcement officers</u>.
- (4) **Tobacco signage** provided by the board must be posted (as outlined in WAC 314-10-020 and <u>WAC</u> 314-10-030 as now or hereafter amended).
- (5) Firearms prohibited signs provided by the board must be posted in each tavern and lounge (per RCW 9.41.300).

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-065 What type of liquor is allowed on a licensed premises? (1) Licensees may only possess and allow persons to consume or possess the type of liquor permitted by the type of liquor license held on the premises; except:

- (a) Under authority of a banquet permit (see chapter 314-18 WAC);
- (b) Restaurant licensees may allow patrons to bring wine into the premises for consumption with a meal; and
- (c) Beer and/or wine only licensees may keep spirituous liquor on the premises for use in the manufacture of food products, provided that all food products manufactured contain one percent or less of alcohol by weight, and customers are made aware that the food products contain liquor.
- (2) For on-premises liquor licenses, the ((L)) licensee((s)) or employees may not permit the removal of liquor in an open container from the licensed premises, except:
- (a) Liquor brought on a licensed premises under authority of a banquet permit may be resealed in its original container and removed at the end of the banquet permit function;

- (b) Per RCW 66.24.320 and <u>RCW</u> 66.24.400, wine that is sold with a meal may be recorked or resealed and removed from the premises; ((and))
- (c) Liquor purchased by registered guests for consumption inside a hotel or motel room may be resealed in its original container and removed from the hotel or motel premises by the guest((-)); and
- (d) Liquor removed from a licensed premises that holds a caterer's endorsement, for the purpose of catering an approved event.

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-070 During what hours can I sell or serve liquor? (1) Between the hours of 2 a.m. and 6 a.m., licensees or employees may not:

- (a) Sell liquor,
- (b) Offer liquor for sale,
- (c) Deliver liquor (except that beer and/or wine distributors may deliver beer and/or wine to retail licensees between the hours of 2 a.m. and 6 a.m.),
  - (d) Permit the removal of liquor from the premises, or
  - (e) Allow liquor to be consumed on the premises.
- (2) Persons working on the premises may possess liquor between the hours of 2 a.m. and 6 a.m. while in the performance of their official duties.
- (3) A local government subdivision may fix later opening hours or earlier closing hours than those specified in this rule, so long as the hours apply to all licensed premises in the local government subdivision's jurisdiction. See WAC 314-12-215(3) for exceptions when a premises is in a board recognized alcohol impact area.

AMENDATORY SECTION (Amending WSR 01-06-014, filed 2/26/01, effective 3/29/01)

WAC 314-11-095 What records am I required to keep regarding my licensed premises? Licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business.

- (1) The following records must be <u>made</u> available for inspection <u>if requested</u> by an employee of the liquor control board, or by a person appointed in writing by the board for the purposes of administering or enforcing any provisions of Title 66 RCW or Title 314 WAC:
- (a) Purchase invoices and supporting documents, to include the items <u>and/or services</u> purchased, from whom the items ((where)) were purchased, and the date of purchase;
- (b) Bank statements and cancelled checks for any accounts relating to the licensed business;
  - (((c) Cancelled checks;))
- (((<del>d)</del>)) (<u>c</u>) Accounting and tax records <u>related to the licensed business and each true party of interest in the liquor license</u>; and
- (((e))) (d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business.

(2) See the following rules for record keeping requirements specific to breweries and wineries: WAC 314-20-015(2), WAC 314-20-050, WAC 314-24-100, and WAC 314-24-150 (as now or hereafter amended).

#### **NEW SECTION**

WAC 314-11-072 Does my premises have to be open to the general public at all times? Unless otherwise approved by the board, a retail licensed premises must be open to the general public whenever liquor is sold, served, or consumed.

# WSR 02-11-069 PERMANENT RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-98-Filed May 10, 2002, 4:59 p.m.]

Date of Adoption: April 12, 2002.

Purpose: To amend WAC 232-12-014 Wildlife classified as endangered, 232-12-011 Wildlife classified as protected shall not be hunted or fished, 232-28-273 2001 Moose, bighorn sheep, and mountain goat seasons and permit quotas, 232-28-248 Special closures and firearm restrictions areas, 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—Muzzleloader area descriptions, 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk area descriptions, 232-28-278 2000-2002 Deer general seasons and 2002 special permits, 232-28-279 2000-2002 Elk general seasons and 2002-2003 special permits, and 232-28-277 2001, 2002, 2003 Big game and wild turkey auction permits and raffles.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-014, 232-12-011, 232-28-273, 232-28-248, 232-28-02240, 232-28-02220, 232-28-278, 232-28-279, and 232-28-277.

Statutory Authority for Adoption: RCW 77.12.047, 77.12.655, 77.12.020.

Adopted under notice filed as WSR 02-06-122, 02-06-121, 02-06-124, 02-06-126, 02-06-125, and 02-06-123 on October 24, 2001 [March 6, 2002].

Changes Other than Editing from Proposed to Adopted Version: WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk area descriptions: Changes from the test of the proposed rule and reasons for difference:

#### Page 4

 Added new Elk Area No. 068 Willapa to better address elk damage problems.

WAC 232-28-278 2000-2002 Deer general seasons and 2002 special permits: Changes from the text of the proposed rule and reasons for difference:

#### Page 2

• Under Youth and Disabled, deleted 209 and 215 from any whitetail. This line was redundant with next line under any deer.

#### Page 3

• Under Archery, Early Archery Deer Seasons, Eastern Mule Deer, reinstate GMUs 243 through 247 to Sept. 1-30 hunt. The units were inadvertently dropped last year. The archery hunt was restored through emergency action last year. This change makes the emergency correction permanent.

#### Page 4

- Under Archery, added Youth and Disabled, Eastern Washington Deer, Sept. 16-30, GMUs 209-242, 248, 260, 269, Any Deer.
- Under Late Archery Eastern Mule Deer, added 247 to the Nov. 20-Dec. 8, 3-point minimum hunt. This is in response to increasing damage concerns in orchards. Orchards in 247 that are adjacent to other GMUs with an active Late Archery hunt serve as de facto refuges for deer. A later archery hunt in 247 should provide some harassment pressure, reducing the amount of time deer are spending in the orchards.
  - Under Eastern Whitetail Deer Nov. 20-Dec. 8, deleted GMUs 124 and 127.
- Under Eastern Whitetail Deer Nov. 20-Dec. 15, added 124 and 127 to provide more time in the field.

#### Page 5

• Under Muzzleloader, added Youth and Disabled, Eastern Washington Deer, Oct. 5-9, GMUs 209-242, 248, 260, 269, Any Deer.

The following changes to permit quotas were adjusted to reflect calendar adjustments, updated survey information, changes in hunter success and allocation to user groups, or to better address damage issues.

#### Page 7

• Changed Big Bend A to Oct. 12-20.

#### Page 8

- Changed permit levels for Quilomene A from 75 to 103, and added the month of Nov.
- Changed permit level for Umtanum A from 65 to 109, and added the month of Nov.
- Changed permit level for Alkali A from 85 to 78.
- Changed dates for Alkali A and B from Nov. 4-17 to Nov. 28-Dec. 7. This is in response to planned military training activities on the Yakima Training Center. No access will be allowed to the general public prior to Nov. 28.

#### Page 9

- Changed dates for Deschutes from Oct. 13-31 to Oct. 12-31.
- Changed dates for Skookumchuck A from Oct. 13-31 to Oct. 12-31.

#### Page 10

• Under Muzzleloader Only Deer, changed the permit level for Quilomene B from 8 to 12.

- Changed the permit level for Umtanum B from 6 to 12.
- Changed the permit level for Alkali C from 12 to 10 and changed the dates from Sept. 30-Oct. 6 to Dec. 8-15.
- Changed the permit level for Alkali D from 8 to 10, changed the dates from Sept. 30-Oct. 6 to Dec. 8-15.
- Changed dates for Mason Lake B from Oct. 6-10 to Oct. 5-9.
- Changed dates for Satsop C from Oct. 6-10 to Oct.
   5-9
- Under Archery Only, changed permit level for Desert D from 62 to 104.
- Changed permit level for Quilomene C from 95 to 115.
- Changed the permit level for Umtanum C from 32 to 62.
- Changed the permit level for Alkali E from 85 to 76, changed the date from Nov. 18-Dec. 2 to Dec. 16-29.
- Changed the permit level for Quilomene D from 75 to 110, changed the dates from Oct. 13-21 to Nov. 4-17.
- Changed the permit level for Umtanum D from 75 to 110, changed the dates from Oct. 13-21 to Nov. 4-17.

#### Page 11

- Changed dates for Toutle B from Oct. 13-31 to Oct. 12-31, and added the month of Oct.
- Changed dates for Wind River C from Oct. 13-31 to Oct. 12-31, and added the month of Oct.
- Changed dates for Skookumchuck C from Oct. 6-31 to Oct. 5-31.
- Under Advanced Hunter Education, added Fisher Island A, Sept. 1-Oct. 11, Any Black-tailed Deer, Deer Area 051, 7 permits.
- Added Fisher Island B, Oct. 12-Nov. 30, Any Blacktailed Deer, Deer Area 051, 7 permits.

## WAC 232-28-279 2000-2002 Elk general seasons and 2002-2003 special permits: Changes from the text of the proposed rule and reasons for difference:

#### Page 2

- Under Modern Firearm Elk Seasons, Eastern Washington Game Management Units changed to 109 east of Aladdin-Northport Road, 113, 117, 124 east of Hwy. 395 for clarity.
- Deleted 382 from multiple date damage hunts. Changed dates and legal elk to Aug. 31-Sept. 13 Antlerless, Sept. 14-15 Any Elk, Oct. 6-7 Antlerless, Oct. 8-11 Any Elk.
- Added 382 to Oct. 26-Nov. 3, Any Elk.

#### Page 3

- Under Late Archery Elk Seasons, added Elk Area 037 in GMU 372.
- In Eastern WA added dates Nov. 20-Jan. 31 to the GMU 352 and 360 partial hunts.

The following changes to permit quotas were adjusted to reflect calendar adjustments, updated survey information,

changes in hunter success and allocation to user groups, or to better address damage issues.

#### Page 6

- Changed permit level for Mountain View A from 8 to 5.
- Added Naneum A, Oct. 21-Nov. 3, Any Bull, EF, GMU 328, 6 permits.
- Added Quilomene A, Oct. 21-Nov. 3, Any Bull, EF, GMU 329, 8 permits.
- Added Teanaway A, Oct. 21-Nov. 3, Any Bull, EF, GMU 335, 6 permits.
- Changed permit level for Peaches Ridge A from 86 to 103.
- Changed permit level for Goose Prairie A from 176 to 114.
- Changed permit level for Bethel A from 120 to 64.
- Changed permit level for Rimrock A from 103 to 112.
- Changed permit level for Cowiche A from 26 to 28.
- Changed dates for Margaret A from Nov. 3-11 to Nov. 2-10.
- Changed dates for Toutle A from Nov. 3-11 to Nov. 2-10.
- Changed dates for Olympic A from Nov. 3-11 to Nov. 2-10.

#### Page 7

- Changed dates for Taneum from Oct. 31-Nov. 4 to Oct. 30-Nov. 3.
- Changed dates for Manastash from Oct. 31-Nov. 4 to Oct. 30-Nov. 3.
- Changed permit level for Observatory A from 48 to 62, changed dates from Oct. 22-Nov. 4 to Oct. 21-Nov. 3 and added EM to tag prefix choice.
- Changed permit level for Cleman from 75 to 100.
- Changed dates for Little Naches A from Oct. 31-Nov. 4 to Oct. 30-Nov. 3.
- Changed dates for Nile from Oct. 31-Nov. 4 to Oct. 30-Nov. 3.
- Changed permit level for Bumping from 530 to 215, change dates from Oct. 31-Nov. 4 to Oct. 30-Nov. 3.
- Changed permit level for Bethel B from 275 to 105, changed dates from Oct. 31-Nov. 4 to Oct. 30-Nov.
   3.
- Changed permit level for Rimrock B from 275 to 100, changed dates from Oct. 31-Nov. 4 to Oct. 30-Nov. 3.
- Changed dates for Cowiche B from Oct. 31-Nov. 4 to Oct. 30-Nov. 3.
- Changed date for Willapa Hills to Nov. 6-10.
- Added Raymond A, Nov. 6-10, 3-Point Minimum or Antlerless, WF or WM, part of GMUs 506, 672, and 673<sup>k</sup>, 20 permits.
- Renamed Raymond C to B, changed date to Dec. 16-31 to avoid overlap, added part of 672, changed permit level from 15 to 30.
- Renamed Raymond D to C, added part of 672, changed permit level from 15 to 30.
- Renamed Raymond E to D, added part of 672.

Changed date from Nov. 7-11 to Nov. 6-10 for Winston, Margaret B, Ryderwood, Coweeman, Toutle B, Marble, Lewis River, and Siouxon.

#### Page 8

- Changed permit level for Satsop from 15 to 30.
- Changed permit level for Mashel A from 25 to 50.
- Added Mashel B Jan. 12-21, Antlerless, WF or WM, part of GMU 654<sup>m</sup>, 100 permits.
- Changed permit level for North Minot A from 30 to 60.
- Changed dates for Williams Creek from Nov. 7-11 to Nov. 6-10.
- Added North Shore A, Nov. 6-10, Antlerless, WF or WM, Elk Area 068, 5 permits, and added WM to tag prefix choice.
- Added 672 to footnote k.
- Under Muzzleloader Bull Permit Hunts, added Naneum B, Oct. 1-11, Any Bull, EM, GMU 328, 1 permit.
- Added Quilomene B, Oct. 1-11, Any Bull, EM, GMU 329, 2 permits.
- Added Teanaway B, Oct. 1-11, Any Bull, EM, GMU 335, 1 permit.
- Changed permit level for Peaches Ridge B from 11 to 15, changed ending date from Oct. 12 to 11.

#### Page 9

- Changed permit level for Goose Prairie B from 22 to 17, changed ending date from Oct. 12 to 11.
- Changed permit level for Bethel C from 17 to 11, changed ending date from Oct. 12 to 11.
- Changed permit level for Rimrock C from 13 to 16, changed ending date from Oct. 12 to 11.
- Changed permit level for Cowiche C from 6 to 10, changed ending date from Oct. 12 to 11.
- Changed permit level for Margaret C from 3 to 4, changed ending date from Oct. 12 to 11.
- Changed permit level for Toutle C from 15 to 16, changed ending date from Oct. 12 to 11.
- Changed ending date for Olympic B from Oct. 12 to 11.
- Changed ending date for West Bar C from Oct. 12 to 11.
- Changed permit levels for Observatory B from 9 to 14, changed ending date from Oct. 12 to 11.
- Changed ending date for Umtanum B from Oct. 12 to 11.
- Delete Malaga D hunt. It is redundant with proposed Malaga F hunt.
- Changed ending date for Satsop from Oct. 14 to 11.
- Changed permit levels for North Minot B from 30 to 60, changed ending date from Oct. 14 to 11.

#### Page 10

- Rename Raymond A to E, add part of GMU 672, change permit level from 15 to 30.
- Under Archery Permit Hunts change permit level for Mountain View C from 6 to 5.
- Changed permit level for Peaches Ridge C from 88 to 126.
- Changed permit level for Observatory C from 40 to 71.

- Changed permit level for Bethel D from 100 to 62.
- Changed permit level for Rimrock D from 87 to 117.
- Changed permit level for Cowiche D from 20 to 27.
- Changed dates for Peshastin G from Sept. 1-15 to Sept. 1-14.
- Changed permit level for Margaret D from 8 to 7.
- Changed permit level for Toutle D from 55 to 61.
- Changed permit level for Olympic C from 6 to 5.
- Changed permit level for Ouinault from 20 to 40.
- Rename Raymond B to F, add part of 672, change permit level from 15 to 60.
- Changed permit level for Satsop from 15 to 30.
- Delete Tanwax hunt.
- Add Naneum C, Sept. 1-14, Any Bull, EA, GMU 328, 35 permits.
- Add Quilomene C, Sept. 1-14, Any Bull, EA, GMU 329, 12 permits.
- Add Teanaway C, Sept. 1-14, Any Bull, EA, GMU 335, 35 permits.

#### Page 11

- Add GMU 672 to footnote "k."
- Add superscript "q" to Elk Area 066 hunts.
- Changed permit level for Chehalis Valley C from 15 to 30.
- Changed permit level for Chehalis Valley E from 10 to 15.
- Changed permit level for Chehalis Valley F from 10 to 15.
- Changed permit level for Chehalis Valley G from 10 to 15.
- Under Persons of disability changed permit level for Observatory D from 5 to 6.
- Changed permit level for Little Naches C from 5 to
- Changed dates for Centralia Mine A from Oct. 27-28 to Oct. 26-27.
- Changed dates for Centralia Mine B from Nov. 3-4 to Nov. 2-3.
- Renamed North Shore A to B. Deleted part of GMU 658. Added Elk Area 068.
- Renamed North Shore B to C. Changed dates from Dec. 1-31 to Dec. 16-31. Deleted part of GMU 658.
   Added Elk Area 068.
- Renamed North Shore C to D. Deleted part of GMU 658. Added Elk Area 068.
- Added North Shore E, Feb. 1-28, Antlerless, Any Elk Tag, Elk Area 068, 5 permits.
- Added Skookumchuck C, Jan. 1-31, Antlerless, Any Elk Tag, GMU 667, 10 permits.
- Eliminated footnote "p" it is no longer needed.
- Added footnote "q" Firearm Restricted Area.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0, Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 10, 2002 Debbie Nelson for Russ Cahill, Chairman Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 00-05, filed 1/24/00, effective 2/24/00)

WAC 232-12-014 Wildlife classified as endangered species. Endangered species include:

Common Name Scientific Name pygmy rabbit Brachylagus idahoensis fisher Martes pennanti gray wolf Canis lupus grizzly bear Ursus arctos sea otter Enhydra lutris sei whale Balaenoptera borealis fin whale Balaenoptera physalus blue whale Balaenoptera musculus humpback whale Megaptera novaeangliae black right whale Balaena glacialis sperm whale Physeter macrocephalus Columbian white-tailed Odocoileus virginianus leudeer curus woodland caribou Rangifer tarandus caribou American white pelican Pelecanus erythrorhynchos brown pelican Pelecanus occidentalis ((peregrine-falcon Falco-peregrinus)) sandhill crane Grus canadensis snowy plover charadrius alexandrinus upland sandpiper Bartramia longicauda spotted owl Strix occidentalis western pond turtle Clemmys marmorata leatherback sea turtle Dermochelys coriacea mardon skipper Polites mardon Oregon silverspot butterfly Speyeria zerene hippolyta Oregon spotted frog Rana pretiosa northern leopard frog Rana pipiens

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

WAC 232-12-011 Wildlife classified as protected shall not be hunted or fished. Protected wildlife are designated into three subcategories: Threatened, sensitive, and other.

(1) Threatened species are any wildlife species native to the state of Washington that are likely to become endangered within the foreseeable future throughout a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as threatened include:

Common Name	Scientific Name
western gray squirrel	Sciurus griseus
Steller (northern)	•
sea lion	Eumetopias jubatus
North American lynx	Lynx canadensis
Aleutian Canada goose	Branta Canadensis
	leucoparei <u>a</u>
bald eagle	Haliaeetus leucocephalus
ferruginous hawk	Buteo regalis
marbled murrelet	Brachyramphus marmoratus
green sea turtle	Chelonia mydas
loggerhead sea turtle	Caretta caretta
sage grouse	Centrocercus urophasianus
sharp-tailed grouse	Phasianus columbianus

(2) Sensitive species are any wildlife species native to the state of Washington that are vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as sensitive include:

Scientific Name
Eschrichtius gibbosus
Gavia immer
Falco peregrinus
Plethodon larselli
Prosopium coulteri
Cottus marginatus
Novumbra hubbsi

(3) Other protected wildlife include:

Common Name	Scientific Name
cony or pika	Ochotona princeps
least chipmunk	Tamius minimus
yellow-pine chipmunk	Tamius amoenus
Townsend's chipmunk	Tamius townsendii
red-tailed chipmunk	Tamius ruficaudus

Permanent [44]

Common Name	Scientific Name
hoary marmot	Marmota caligata
Olympic marmot	Marmota olympus
Cascade golden-mantled	
ground squirrel	Spermophilus saturatus
golden-mantled ground squirrel	Spermophilus lateralis
Washington ground	
squirrel	Spermophilus washingtoni
red squirrel	Tamiasciurus hudsonicus
Douglas squirrel	Tamiasciurus douglasii
northern flying squirrel	Glaucomys sabrinus
wolverine	Gulo gulo
painted turtle	Chrysemys picta
California mountain	
kingsnake	Lampropeltis zonata;

All birds not classified as game birds, predatory birds or endangered species, or designated as threatened species or sensitive species; all bats, except when found in or immediately adjacent to a dwelling or other occupied building; mammals of the order Cetacea, including whales, porpoises, and mammals of the order Pinnipedia not otherwise classified as endangered species, or designated as threatened species or sensitive species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

AMENDATORY SECTION (Amending Order 01-69, filed 4/26/01, effective 5/27/01)

WAC 232-28-273 ((2001)) 2002 Moose, bighorn sheep, and mountain goat seasons and permit quotas.

#### ((2001)) 2002 Moose Permit Hunts

Who May Apply: Anyone may apply; EXCEPT those who drew a moose permit previously in Washington State. Only one moose permit will be issued during an individual's lifetime (waived for Mt. Spokane youth hunt, and raffle and auction hunts).

Bag Limit: One moose of either sex, EXCEPT antlerless only for the Mt. Spokane B Hunt and the Mt. Spokane Youth Hunt.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	(( <del>2001</del> )) <u>2002</u> Permits
Kettle ((River)) Range	Oct. 1-Nov. 30	GMU 101, 105	Any Legal Weapon	1
Selkirk Mtns.	Oct. 1-Nov. 30	GMU 113	Any Legal Weapon	18
Mt. Spokane A	Oct. 1-Nov. 30	GMU 124, east of Hwy 395	Any Legal Weapon	15
Mt. Spokane B	Oct. 1-Nov. 30	GMU 124, east of Hwy 395	Any Legal Weapon	15
Mt. Spokane Youth Only(([]))*	Oct. 1-Nov. 30	GMU 124, east of Hwy 395	Any Legal Weapon	10
49 Degrees North	Oct. 1-Nov. 30	GMU 117	Any Legal Weapon	22
Three Forks	Oct. 1-Nov. 30	GMU 109	Any Legal Weapon	6
Hangman	Oct. 1-Nov. 30	GMU 127, 130	Any Legal Weapon	5
Huckleberry	Oct. 1-Nov. 30	GMU 121, 124 west of Hwy 395	Any Legal Weapon	<u>2</u>

<sup>\*</sup>Applicants must be eligible to purchase a youth moose permit application. Youth hunters must be accompanied by an adult during the hunt.

((2001)) 2002 Mountain Sheep (Bighorn) Permit Hunts

Who May Apply: Anyone may apply; EXCEPT those who drew a bighorn permit previously in Washington State. Only one bighorn sheep permit will be issued during an individual's lifetime. (Waived for raffle and auction hunts.)

Bag Limit: One bighorn ram.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	(( <del>2001</del> )) <u>2002</u> Permits
Selah Butte	Sept. 15-Oct. 10	Sheep Unit 4	Any Legal Weapon	((4)) <u>3</u>
Umtanum	Sept. 15-Oct. 10	Sheep Unit 5	Any Legal Weapon	4
Cleman Mountain	Sept. 15-Oct. 10	Sheep Unit 7	Any Legal Weapon	(( <del>6</del> )) <u>3</u>
Mt. Hull	Sept. 15-Oct. 10	Sheep Unit 10	Any Legal Weapon	0

Lincoln Cliffs	Sept. 15-Oct. 10	Sheep Unit 12	Any Legal Weapon	1
Quilomene	Sept. 15-Oct. 10	Sheep Unit 13	Any Legal Weapon	((€)) <u>8</u>
Swakane	Sept. 15-Oct. 10	Sheep Unit 14	Any Legal Weapon	1

#### Mountain (Bighorn) Sheep Units:

Sheep Unit 4 Selah Butte: Permit Area: That part of Yakima and Kittitas counties between Ellensburg and Yakima east of the Yakima River and north of Selah Creek, west of Interstate 82 and south of Interstate 90.

Sheep Unit 5 Umtanum: Permit Area: Those portions of Yakima and Kittitas counties west of the Yakima River, north of Wenas Creek, and east of USFS Road 1701 to Manastash Lake and its drainage; south and east along the South Fork Manastash Creek to Manastash Creek and the Yakima River.

Sheep Unit 7 Cleman Mountain: Permit Area: That part of Yakima County south of Wenas Creek and east of USFS Road 1701, north of Highway 410 and Highway 12 and west of the Yakima River.

Sheep Unit 10 Mt. Hull: Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along U.S. Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews; then east to the Dry Gulch Road; then north to the

Oroville-Toroda Creek Road (Molson Grade Road); then west to Oroville and the point of beginning.

**Sheep Unit 12 Lincoln Cliffs:** Permit Area: That part of Lincoln County north of Highway 2.

Sheep Unit 13 Quilomene: Permit Area: GMU 329.

Sheep Unit 14 Swakane: Permit Area: GMU 250.

#### ((2001)) 2002 Mountain Goat Permit Hunts

Who May Apply: Anyone may apply; except those who drew a mountain goat permit in Washington state after 1998. Starting in 1999, only one mountain goat permit will be issued during an individual's lifetime. (Waived for raffle and auction hunts.)

**Bag Limit:** One (1) adult goat of either sex with horns four (4) inches or longer. WDFW urges hunters to refrain from shooting nannies with kids. Permit hunters may start hunting Sept. 1 with archery equipment.

		•	, , ,	
Hunt	Permit	Permit Hunt	Special	(( <del>2001</del> )) <u>2002</u>
Name	Season	<b>Boundary Description</b>	Restrictions	Permits
Chelan North	Sept. 15-Oct. 31	Goat Unit 2-1	Any Legal Weapon	((2)) 1
Methow	Sept. 15-Oct. 31	Goat Unit 2-2	Any Legal Weapon	2
Naches Pass	Sept. 15-Oct. 31	Goat Unit 3-6	Any Legal Weapon	((3)) 2
Bumping River	Sept. 15-Oct. 31	Goat Unit 3-7	Any Legal Weapon	2
Tieton River	Sept. 15-Oct. 31	Goat Unit 3-9	Any Legal Weapon	3
Blazed Ridge	Sept. 15-Oct. 31	Goat Unit 3-10	Any Legal Weapon	((2)) 1
Kachess Ridge	Sept. 15-Oct. 31	Goat Unit 3-11	Any Legal Weapon	1
Jack Mountain	Sept. 15-Oct. 31	Goat Unit 4-9	Any Legal Weapon	0
Corral Pass	Sept. 15-Oct. 31	Goat Unit 4-38	Any Legal Weapon	2
Tatoosh	Sept. 15-Oct. 31	Goat Unit 5-2	Any Legal Weapon	3
Smith Creek	Sept. 15-Oct. 31	Goat Unit 5-3	Any Legal Weapon	1
Goat Rocks	Sept. 15-Oct. 31	Goat Unit 5-4	Any Legal Weapon	3

#### **Mountain Goat Units:**

Goat Unit 2-1 Chelan N. (Chelan County): Permit Area: Beginning at the mouth of Fish Creek on Lake Chelan (Moore Point); then northeast up Fish Creek and USFS trail 1259 to the Sawtooth crest near Deephole Spring; then southeast along the Sawtooth crest, which separates Chelan and Okanogan County, to Horsethief Basin and the headwaters of Safety Harbor Creek; then south along Safety Harbor Creek to Lake Chelan, then northwest along the north shore of Lake Chelan to the mouth of Fish Creek at Moore Point and the point of beginning.

Goat Unit 2-2 Methow Area: Permit Area: Okanogan County within the following described boundary: Beginning at the Town of Twisp, westerly along the Twisp River Road

(County Road 4440) to Roads End; west up the Twisp Pass Trail 432 to Twisp Pass and the Okanogan County line; northerly along the Okanogan County line through Washington Pass to Harts Pass; southeast down Harts Pass (Road 5400) to Lost River; then along the Lost River-Mazama Road to Mazama; then southwest to State Highway 20; then southeasterly along State Highway 20 to Twisp and the point of beginning.

Goat Unit 3-6 Naches Pass: Permit Area: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to USFS Road 19 and continuing to State Highway 410; then west along State Highway 410 to Chinook Pass and point of beginning.

Goat Unit 3-7 Bumping River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail 980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-9 Tieton River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and Pacific Crest Trail; then south to the Yakama Indian Reservation Boundary; then east to USFS Jeep Trail 1137; then west to USFS Road 1070-578 Spur; then west to Road 1000; then north to USFS Road 12; then north to State Highway 12; then west on State Highway 12 to point of beginning.

Goat Unit 3-10 Blazed Ridge: Permit Area: Kittitas and Yakima counties within the following described boundary: Beginning at the mouth of Cabin Creek on the Yakima River; then west along Cabin Creek to the headwaters near Snowshoe Butte; then south along the Cascade Crest separating the Green and Yakima river drainage to Pyramid Peak; then southeast along the North Fork, Little Naches, and Naches River to the Yakima River; then north along the Yakima River to the mouth of Cabin Creek and point of beginning.

Goat Unit 3-11 Kachess Ridge: Permit Area: Kittitas County within the following described boundary: Beginning at the mouth of the Kachess River on the Yakima River; then north along the Kachess River and Kachess Lake to USFS Road 4600; then east on USFS Road 4600 to the Cle Elum River; then south along the Cle Elum River and Lake Cle Elum to the Yakima River; then northwest along the Yakima River to the mouth of the Kachess River and point of beginning.

Goat Unit 4-9 Jack Mountain: Permit Area: Whatcom County within the following described boundary: Beginning at the confluence of Ruby Creek and Crater Creek; then north up Crater Creek to the ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue due north to Devil's Creek; then west down Devil's Creek to Ross Lake; then south along the east shoreline of Ross Lake to Ruby Arm; then easterly up Ruby Arm and Ruby Creek to the confluence of Crater Creek and the point of beginning.

Goat Unit 4-38 Corral Pass: Permit Area: Pierce County within the following described boundary: Beginning where Goat Creek intersects the Corral Pass Road; then southeast up Goat Creek to the Cascade Crest; then north along the Crest to USFS Trail 1188; then northwest along said trail to USFS Trail 1176; then north along said trail to Corral Pass; then west along Corral Pass Road to its intersection with Goat Creek and the point of beginning.

Goat Unit 5-2 Tatoosh: Permit Area: Lewis County within the following described boundary: Beginning at the junction of the southern Mount Rainier National Park Boundary and State Highway 123; then south along State Highway 123 to U.S. Highway 12; then southwest along said highway to Skate Creek Road (USFS Road 52); then northwest along

said road to the junction of Morse Creek Road (old road to Longmire Campground); then north along said road to the Mount Rainier National Park Boundary; then east along the southern park boundary to the point of beginning.

Goat Unit 5-3 Smith Creek: Permit area: Lewis County within the following described boundary: Beginning at the Town of Randle; then east along U.S. Highway 12 to USFS Road 21; then southeast along USFS Road 21 to USFS Road 22; then northeast and northwest along USFS Road 22 to USFS Road 23; then east and northwest on USFS Road 23 to USFS Road 25; then north along USFS Road 25 to Randle and point of beginning.

Goat Unit 5-4 Goat Rocks: Permit Area: Lewis County south of the White Pass Highway (U.S. Highway 12) and east of the Johnson Creek Road (USFS Road 1302).

AMENDATORY SECTION (Amending Order 01-69, filed 4/26/01, effective 5/27/01)

WAC 232-28-248 Special closures and firearm restriction areas.

RESTRICTED AND PROHIBITED HUNTING AREAS.

These areas are closed by Fish and Wildlife Commission action. Other areas may be closed to hunting by local, state or federal regulations.

IT IS ILLEGAL TO HUNT EXCEPT WHERE PROVIDED IN THE FOL-LOWING AREAS:

- 1. Little Pend Oreille National Wildlife Refuge: The southern part of the Little Pend Oreille National Wildlife Refuge in Stevens County is closed to hunting and discharge of firearms except during the periods of April 15-May 15 and October 1-December 31. This closure is south of a boundary beginning at the west project boundary in Section 3, Township 34 N, R 40 EWM, then easterly along Road 1.0 (Bear Creek Road) to the intersection with Road 2.0 (Blacktail Mountain Road) in Section 2, then easterly along Road 2.0 to the easterly boundary in Section 8, Township 34 N, R 42 EWM.
  - The Little Pend Oreille National Wildlife Refuge north of the preceding boundary is open to all legally established hunting seasons from April 15 to May 15 and September through December.
- 2. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds year round. Both the Little Pend Oreille (1) and Parker Lake (2) closures were established to provide a protected area for the Air Force Military Survival Training Program.
- Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing

(wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.

- 4. Green River (GMU 485): Except for special permit hunters, who may also take a black bear and/or cougar with the appropriate license/tag options, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game by Department of Fish and Wildlife regulated hunters throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds). The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the City during all times of the year.
- 5. McNeil Island: McNeil Island (part of GMU 652) is closed to the hunting of all wild animals (including wild birds) year around.
- 6. Loo-wit (GMU 522): Closed to hunting and trapping within GMU 522 (Loo-wit).
- 7. The Voice of America Dungeness Recreation Area County Park in Clallam County is closed to all hunting except Wednesdays, weekends, and holidays, from the first weekend in October to the end of January.

#### **BIG GAME CLOSURES**

- Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
- Cathlamet: Beginning in the town of Skamokawa; then 2. east along SR 4 to the Risk Road; then south and east along the Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to the Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning. This area is closed to all deer and elk hunting, to protect the Columbian Whitetail Deer.
- 3. Willapa National Wildlife Refuge: Except for Long Island, Willapa National Wildlife Refuge is closed to all big game hunting.
- 4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds) except for holders of special elk permits during the established open season. This area is closed to motorized vehicles. Entry is allowed only by Forest Service permit for the duration of the hunt. Any entry into the Mill Creek Watershed at other times is prohibited.
- Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.

#### FIREARM RESTRICTION AREAS

The firearm restriction areas listed below have been established by the Fish and Wildlife Commission. Centerfire and rimfire rifles are not legal for hunting in these areas.

In firearm restriction areas, hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment except in the GMU 652 restriction area outlined for King County. Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloaders or revolver-type handguns meeting the equipment restrictions or legal shotguns firing slugs or buckshot.

COUNTY	AREA
Clallam	That portion of GMU 624 (Coyle)
	located within Clallam County.
Clark	GMU 564 (Battleground)
Cowlitz	GMU 554 (Yale)
	GMU 504 (Stella)
	That portion of GMU 564 (Battle-

((Franklin, Grant and That part of GMU 381 west of SR 17-Adams and US Highway 395.))

ground) in Cowlitz County.

Grays Harbor That portion of

That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning.

The ((South Elma)) Chehalis Valley restriction applies only during elk seasons:

That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and ((Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on South Bank Road to the Delezene Road; then south on the Delezene Road to a point 1 mile from the South Bank Road; southeast along a line 1 mile southwest of the South Bank Road to

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AREA	COUNTY	AREA
the Oakville Brooklyn Road; then east ton the Oakville Brooklyn Road to Oakville and Highway 12; then north-	Kittitas	GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
west on Highway 12 to Wakefield Road to Elma and)) Highway 107 junction near Montesano; east and south on	Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstene Island.
Highway 12 to Oakville; south on the Oakville-Brooklyn Road to a point one mile west of South Bank Road; northwest along a line one mile southwest of the South Bank Road to Delzene Road; north along Delzene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to the Chehalis River; west along the Chehalis River to	Pacific  Pierce	GMU 684 (Long Beach) west of Sand Ridge Road. The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge. GMU 681 between U.S. Highway 101, Chinook Valley Road and the Columbia River from Astoria-Megler bridge to the Wallacut River.  GMU 652 (Anderson and Ketron
Highway 107 bridge; north on Highway 107 to Highway 12 to the point of beginning. That portion of GMU 410 (Island) located on Camano and Whidbey islands. Indian and Marrowstone islands. The area west of Highway 203 (Mon-	Tieree	islands) limited to archery, shotgun, and muzzleloader. McNeil Island closed to hunting.  See GMU 652 restriction area outlined for King County.  GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.
roe-Fall City, Fall City-Preston Road) to Interstate 90 (I-90), I-90 to Highway	Snohomish	West of Highway 9.
18, Highway 18 to Interstate 5 (I-5), I-5	Skagit	Guemes Island and March Point north of State Highway 20.
to the Pierce-King County line; Vashon and Maury islands.  The following portion of GMU 652 (Puyallup): Beginning at the intersec-	Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
tion of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the south-	Whatcom	Area west of I-5 and north of Bellingham city limits including Lummi Island and Point Roberts.

AMENDATORY SECTION (Amending Order 01-69, filed 4/26/01, effective 5/27/01)

WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk <u>and deer</u> area descriptions.

Elk Area No. 029 Toledo (Lewis and Cowlitz counties): Beginning at the Cowlitz River and State Highway 505 junction; east along State Highway 505 to Eden Road; east along Eden Road to the Evans Road; east along the Evans Road to the Weyerhaeuser 1800 Road; south along Weyerhaeuser 1800 Road to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the North Fork Toutle River to Alder Creek to the Weyerhaeuser 2400 Road; west along the Weyerhaeuser 2400 Road to the Weyerhaeuser 4400 Road to Johnson Creek and the South Fork Toutle River to State Highway 504; east on Highway 504 to State Highway 505; north along Highway 505 to the Weyerhaeuser 1500 Road to

Kitsap

COUNTY

Island

Jefferson King

east Mud Mountain Road to 284th Ave-

nue Southeast; then north along 284th

the point of the beginning. (This restric-

East of State Highway 16 originating at

the Tacoma Narrows Bridge to Gorst,

and east of Highway 3 to Newbury Hill

Road, north of Newbury Hill Road and

bridge Island, and Bangor Military Res-

the Bremerton-Seabeck Highway to

Big Beef Creek Bridge; all of Bain-

Avenue Southeast to State Highway 410; then west along Highway 410 to

tion includes high power rifles and

muzzleloaders.)

ervation.

Salmon Creek; west along Salmon Creek to the Cowlitz River; north along the Cowlitz River to the junction of State Highway 505 and point of beginning.

Elk Area No. 031 Shushuskin (Kittitas County): Beginning at Umtanum Road and the Yakima River; west along Umtanum Road to Manastash Road; west on Manastash Road to Cove Road; south and west on Cove Road to Hanson Road and Umtanum Creek; east (downstream) along Umtanum Creek to the Yakima River; north (upstream) along the Yakima River to the point of beginning.

Elk Area No. 032 Malaga (Kittitas and Chelan counties): Beginning at the mouth of Davies Canyon on the Columbia River; west along Davies Canyon to the cliffs above (north of) the North Fork Tarpiscan Creek; west and north along the cliffs to the Bonneville Power Line; southwest along the powerline to the North Fork Tarpiscan Road in Section 9, Township 20N, Range 21E; north and west along North Fork Tarpiscan Road to Colockum Pass Road (Section 9, Township 20N, Range 21E); south and west on Colockum Pass Road to section line between Sections 8 & 9; north along the section line between Sections 8 and 9 as well as Sections 4 & 5 (T20N, R21E) & Sections 32 & 33 (T21N, R21E) to Moses Carr Road; west and north on Moses Carr Road to Jump Off Road; south and west on Jump Off Road to Shaller Road; north and west on Shaller Road to Upper Basin Loop Road; north and West on Upper Basin Loop Road to Wheeler Ridge Road; north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); north on Basin Loop Road to Wenatchee Heights Road; west on Wenatchee Heights Road to Squilchuck Road; south on Squilchuck Road to Beehive Road (USFS Rd 9712); northwest on Beehive Road to USFS Rd 7100 near Beehive Reservoir; north and west on USFS Rd 7100 to Peavine Canyon Road (USFS Rd 7101); north and east on Peavine Canyon Road to Number Two Canyon Road; north on Number Two Canyon Road to Crawford Street in Wenatchee; east on Crawford Street to the Columbia River; south and east along the Columbia River to Davies Canyon and point of beginning. (Naneum Green Dot, Washington Gazetteer, Wenatchee National Forest)

Elk Area No. 033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; west on Crawford Street and Number Two Canyon Road to USFS 7101 Road (Peavine Canyon); west on USFS 7101 Road to Mission Creek Road; north on Mission Creek Road to USFS 7104 Road (Sand Creek Road); west on USFS 7104 Road (Sand Creek Road) to Camas Creek; west up Camas Creek to where Camas Creek crosses USFS 7200 Road, T22N, R18E, Section 4; north along USFS 7200 Road to U.S. Highway 97; north on U.S. Highway 97 to USFS 7300 Road (Mountain Home Road); north on the USFS 7300 Road to the Wenatchee River at Leavenworth; down the Wenatchee River and Columbia River to the point of beginning.

Elk Area No. 036 Riverbottom (Kittitas County): Beginning at the junction of Umtanum Road and State Route 821; south on State Route 821 and the Yakima River to Umtanum Creek; west up Umtanum Creek to Umtanum Road; north on

Umtanum Road to State Route 821 and the point of beginning.

Elk Area No. 041 Skagit (Skagit County): Begin at the intersection of CP 190 Road and CP 132 Road (Section 28, T36N, R5E); east along the CP 132 Road to the CP 130 Road; east and south along CP 130 Road to CP 110 Road, west, south and east along CP 110 Road to Childs Creek; south down Childs Creek to State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Hwy; west on South Skagit Hwy to State Route 9; north on State Route 9 to State Route 20; east on State Route 20 to Helmick Road; north on Helmick Road to CP 190 Road to CP 132 Road and the point of beginning. (WA Atlas & Gazetteer & Mt. Baker-Snoqualmie National Forest Map)

Elk Area No. 050 Curtis (Lewis County): Beginning at the Boistfort Road, State Highway 6 intersection; west to the Mauerman Road; west and southwest on the Mauerman Road to the Pe Ell/McDonald Road; south and east on the Pe Ell/McDonald Road to the Lost Valley Road; south and southeast on the Lost Valley Road to the Boistfort Road; east and north along the Boistfort Road to State Highway 6 and point of beginning.

Elk Area No. 052 Mossyrock (Lewis County): Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway 12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 053 Randle (Lewis County): Beginning at the town of Randle and the intersection of U.S. Highway 12 and State Route 131 (Forest Service 23 and 25 Roads); south on State Route 131 to Forest Service 25 Road; south on Forest Service 25 Road to the Cispus River; west along the Cispus River to the Champion 300 line bridge; south and west on the Champion 300 line to the Champion Haul Road; north along the Champion Haul Road to Kosmos Road; north on Kosmos Road to U.S. Highway 12; east on U.S. Highway 12 to Randle and point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 054 Boistfort (Lewis County): Beginning at the Town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along

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the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to the town of Winlock and State Highway 603; south along Highway 505 to the Winlock/Vader Road; south along said road to the Town of Vader and the point of beginning.

Elk Area No. 055 East Valley (Wahkiakum County): Within one mile on either side of the line beginning at Wilson Creek Park on East Valley Road; west on East Valley Road to the junction with Middle Valley Road (4.5 miles); north along Middle Valley Road to the junction of Oat Field Road (2.5 miles).

Elk Area No. 057 Carlton (Lewis County): That part of 513 (South Rainier) lying east of Highway 123 and north of Highway 12.

Elk Area No. 058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Pacific Crest Trail.

Elk Area No. 059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness.

Elk Area No. 062 South Bank (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; southeast on the South Bank Road to Delezene Road; south on the Delezene Road to a point one mile from the South Bank Road; southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; east on the Oakville-Brooklyn Road to Oakville and Highway 12; northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.

Elk Area No. 064 Quinault Valley (Grays Harbor and Jefferson counties): That portion of GMU 638 (Quinault) beginning at the junction of Wright Canyon Road and South Shore Road; north to the shoreline of Lake Quinault; north along Lake Quinault to the Olympic National Park (ONP) boundary; east along ONP boundary to its intersection with the South Shore Road and U.S. Forest Service boundary; west along the U.S. Forest Service boundary to the Wright Canyon Road Junction with the South Shore Road and point of beginning.

Elk Area No. 066 Chehalis Valley (Grays Harbor County): That portion of GMU 660 (Minot Peak) beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to Oakville; south on Oakville-Brooklyn Road to a point one mile west of South Bank Road; northwest along a line one mile southwest of South Bank Road to Delezene Road; north along Delezene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to Chehalis River; west on Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 and the point of beginning.

Elk Area((s)) No. 067 North Minot (Grays Harbor County): The portion of GMU 660 (Minot Peak) beginning at the junction on State Route 107 and the Melbourne A-line, on the Melbourne A-line to the Vesta F-line; south on Vesta

F-line to Vesta H-line (Vesta Creek Road); south on Vesta Creek Road to the North River Road; south and east on North River Road to the Brooklyn Road; east on Brooklyn Road to the Garrard Creek Road; east and north on Garrard Creek Road to the South Bank Road; east on South Bank to South State Street (Oakville); north on South State Street to US 12; northwest and west on US 12 to State Route 107; south and southwest on SR 107 to the Melbourne A-line and the point of beginning.

Elk Area No. 068 Willapa (Grays Harbor County): That part of GMU 658 south of SR 105 between the intersection of SR 105 and Hammond Road and the SR 105 bridge over Smith Creek; and within one mile north of SR 105 west from Hammond Road and east of the SR 105 bridge over Smith Creek.

<u>Deer Area No. 051 Fisher Island (Cowlitz County):</u> The <u>islands in the Columbia River known as Fisher Island and Hump Island in Game Management Unit 504.</u>

AMENDATORY SECTION (Amending Order 01-69, filed 4/26/01, effective 5/27/01)

WAC 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—Muzzleloader area descriptions.

Muzzleloader Area No. 911 Fairview (Kittitas County): Begin at U.S. Highway 97 and First Creek ((Road)); east on First Creek ((Road)) to USFS 3507; south on USFS 3507 to (USFS 35 Road) to USFS 3517 Road; east on USFS 3517 Road to Lillard Hill Road and Wilson Creek Road((; south on Wilson Creek Road)) to the BPA Powerlines (T19N; R19E; Section 19); east along the BPA Powerlines to the Colockum Pass Road (T19N; R20E; Section 16); south on Colockum Pass Road to the BPA Powerlines (T18N; R20E; Section 6); east along the BPA Powerlines to the Parke Creek Road; north on Parke Creek Road to Whiskey Jim Road; east on Whiskey Jim Road to Beacon Ridge Road; south on Beacon Ridge Road to Vantage Highway; east on Vantage Highway to Interstate 90 (I-90); west on I-90 to ((Highway 97 and)) the Highline Canal at the trestle at milepost 123; south along the canal to the pumpstation; south and west along the north branch of the canal to State Highway 821 and the Yakima River; north along the Yakima River to Umtaneum Road; south on Umtaneum Road to the south branch of the extension canal; west along the canal to Bradshaw Road; west along Bradshaw Road to the elk fence; west and north along the elk fence to the cattleguard at Taneum Creek Road; north and west along the elk fence to the BPA powerline crossing at Section 10; west along the powerline to the junction with Cabin Creek Road (1 mi. south of railroad tracks in Easton); north on Cabin Creek Road to Easton and I-90; east on I-90 to Exit 80 (Bullfrog Road); north on Bullfrog Road to State Route 903; north on State Route 903 to No. 6 Canyon Road (south edge of city of Roslyn); northeast up No. 6 Canyon Road to Roslyn Ridge Road and over the ridge to Carlson Canyon Road; east and northeast on Carlson Canyon Road to Westfork Teanaway Road; east on Westfork Teanaway Road to the junction with Northfork Teanaway Road; north on the

Northfork Teanaway Road to junction with Dickey Creek Road in the northeast 1/4 of Section 29; east on Dickey Creek Road to USFS Road 9702; east on USFS Road 9702 (past Red Top Mountain) to USFS Road 9738 and east to State Route 97; south on State Route 97 to First Creek to the point of beginning.

Muzzleloader Area No. 925 Ritzville (Adams County): Beginning at the junction of Interstate 90 and S.R. 261 near the Town of Ritzville; south along S.R. 261 to S.R. 26; east on S.R. 26 to the Whitman County line; north along the Adams, Whitman County line to where it intersects the Lincoln, Adams County line; north along the Adams, Lincoln County line to Interstate 90; west along Interstate 90 to point of beginning.

Muzzleloader Area No. 926 Guemes (Skagit County): That part of GMU 407 (North Sound) on Guemes Island.

Muzzleloader Area No. 941 Skagit River (Skagit County): Beginning at the intersection of State Route 9 and State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 to point of beginning.

Muzzleloader Area No. 944 Clemen (Yakima County): That portion of GMU 342 beginning at the junction of Highway 410 and USFS Road 1701 (Big Bald Mountain Road); north to USFS Road 1712; east on USFS Road 1712 (Clemen Ridge Road) to the ((east edge of Meyster Canyon; along the east side of Meyster Canyon to the elk fence; west along the elk fence to Waterworks Canyon and)) elk fence gate (T15N; R17E; Section 23 NE 1/4) at the top of Austin Spur Road; south and west along the elk fence to Highway 410 ((and)) to the point of beginning.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 01-69, filed 4/26/01, effective 5/27/01)

WAC 232-28-278 2000-2002 Deer general seasons and (( $\frac{2001}{2}$ ))  $\frac{2002}{2}$  special permits.

Bag Limit: One (1) deer per hunter during the ((2001)) 2002 hunting season. The Fish and Wildlife Commission may authorize two doe permits for damage areas. Any multiple doe permits will be identified by special permit.

**Hunting Method:** Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Any Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Branched Antler Restrictions: APPLIES TO ALL HUNTERS DURING ANY GENERAL SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points

must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

2 Point minimum GMUs: 437, 558, 574, 578, 588, 636, 654, and 681.

**3 Point minimum GMUs:** All Mule Deer in 100, 200, and 300 series GMUs; Whitetail Deer in GMUs 127, 130, 133, 136, 139, 142, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, and 186.

Permit Only Units: The following GMUs are closed during general seasons: 290 (Desert), 329 (Quilomene), 342 (Umtanum), 371 (Alkali), and 485 (Green River).

GMUs Closed to Deer Hunting: 157 (Mill Creek Watershed) and 522 (Loo-wit).

Blacktail Deer: Any member of blacktail/mule deer (species *Odocoileus hemionus*) found west of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to Klickitat County and in Klickitat County west of Highway 97.

Mule Deer: Any member of blacktail/mule deer (species Odocoileus hemionus) found east of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to Klickitat County and in Klickitat County east of Highway 97.

Whitetail Deer: Means any whitetail deer (member of the species *Odocoileus virginianus*) except the Columbian Whitetail Deer (species *Odocoileus virginianus leucurus*).

#### **Modern Firearm Deer Seasons**

License Required: A valid big game hunting license which includes a deer species option.

**Tag Required:** Valid modern firearm deer tag on his/her person for the area hunted.

**Hunting Method:** Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

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Hunt Season	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
HIGH BUCK HUNTS					
	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten and Olympic Peninsula Wilderness Areas and Lake Chelan Recreation Area and that part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail	3 pt. min.
GENERAL SEASON H	UNTS				<del></del>
Western Washington Blacktail Deer	Oct. 14-31 Oct. 13-31 Oct. 12-31 407, 418, 426, 448 through 466 through 520, 524 through 556, 572, 601 through 633, 638 through 638 through 638 through 638 through 638 through 638 through 638 t		407, 418, 426, 448 through 466, 490, 501 through 520, 524 through 556, 560, 568, 572, 601 through 633, 638 through 673, 684	Any buck	
				410, 564	Any deer
				437, 558, 574, 578, 588, 636, 654, 681	2 pt. min.
Eastern Washington Whitetail Deer	Oct. 14-27	Oct. 13-26	Oct. 12-25	101 through 124, 203 through 382 except closed in GMUs 290, 329, 342, 371 and PLWMA 201	Any whitetail buck
	Oct. 14-22	Oct. 13-21	Oct. 12-20	127 through 154, 162 through 186	Whitetail, 3 pt. min.
Mule Deer	Oct. 14-22	Oct. 13-21	Oct. 12-20	All 100, 200, and 300 series GMUs except closed in GMUs 157, 290, 329, 342, and that part of 371 east of Interstate Highway 82, and PLWMA 201	3 pt. min., except any deer in that part of GMU 381 west of Highway 395 and SR17
LATE BUCK HUNTS			- 13	AU 400 500 and 600 CMUs assert should	Any buok avant 2
Western Washington Blacktail Deer	Nov. 16-19	Nov. 15-18	Nov. 14-17	All 400, 500, and 600 GMUs except closed in GMUs 418, 426, 437, 448, 450, 460, 485, 522, 574, 578, and 588	Any buck except 2 pt. min. in GMUs 558, 636, 654, 681 and any deer in GMUs 410 and 564
Eastern Washington Whitetail Deer	Nov. 6-19	Nov. 5-19	Nov. 4-19	105 through 124	Any whitetail buck
Willetan Deel	Nov. 11-19	Nov. 10-18	Nov. 9-17	127 through 142	Whitetail-3 pt. min.
YOUTH & DISABLE	D HUNTERS				
Eastern Washington Whitetail Deer		Oct. 13-21	Oct. 12-20	204(( <del>, 209, 215</del> ))	Any whitetail
Eastern Washington Deer		Oct. 13-21	Oct. 12-20	209- <u>242,</u> 248, 260, 269	Any Deer
HUNTERS 65 AND O	VER, DISABLED, O	R YOUTH SEASONS			
Eastern Washington Whitetail Deer	Oct. 14-27	Oct. 13-26	Oct. 12-25	101 through 124	Any whitetail deer
	Oct. 14-22	Oct. 13-21	Oct. 12-20	127 through 142	Whitetail-3 pt. min. or antlerless
Eastern Wash- ington Mule Deer		Oct. 13-21	Oct. 12-20	142	Mule deer, 3 pt. min. or ((anterless)) antlerless
DISABLED HUNTER	S				T
Eastern Washington Whitetail Deer	Oct. 14-22	Oct. 13-21	Oct. 12-20	145 through 154, 162 through 186	Whitetail-3 pt. min. or antlerless
ADVANCED HUNTE	R EDUCATION (AH	E) GRADUATE SEASON			<u></u>
Eastern Washington Whitetail Deer	Dec. 9-15	Dec. 9-15	Dec. 9-15	GMUs 130-142	Whitetail-Antler- less only

Archery Deer Seasons
License Required: A valid big game hunting license which includes a deer species option.
Tag Required: Valid archery deer tag on his/her person for the area hunted.
Special Notes: Archery tag holders can only hunt during archery seasons with archery equipment.

Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
Early Archery De	er Seasons				
Western Washington Blacktail Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	407 through 426, 448 through 466, 490 through 520, 524 through 556, 560 through 572, 601 through 633, 638 through 673, 684 and Long Island.	Any Deer, except buck only in GMUs 506, 530, 550, 568, 672, 673
				437, 558, 574, 578, 588, 636, 654, 681	2 pt. min. or antler- less
				Alpine Lakes, Glacier Peak, and Olympic Peninsula Wilderness Areas	3 pt. min. or antler- less
Eastern Washington Mule Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	101 through 127, 204, <u>243 through 247</u> , 249 through 251, 260, 262, 328, 334 through 340, 346 through 368, 372	3 pt. min.
	Sept. 1-15	Sept. 1-15	Sept. 1-15	130 through 154, 162 through 178, 181, 186, 209 through 242, 248, 254, 266, 269, 272, 278, 284, 381, 382	3 pt. min., except any deer in GMU 381
	Sept. 16-30	Sept. 16-30	Sept. 16-30	130 through 154, 162 through 178, 209 through 242, 248, 254, 266, 269, 272, 278, 284, 381, 382	3 pt. min. or antler- less, except any deer in GMU 381
Eastern Washington Whitetail Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	101 through 124, 204 through 284	Any whitetail deer
	Sept. 1-30	Sept. 1-30	Sept. 1-30	127 through 154, 162 through 186	Whitetail, 3 pt. min. or antlerless
Youth and Disable	ed Hunters				
Eastern Wash- ington Deer			Sept. 16-30	209 through 242, 248, 260, 269	Any deer
Late Archery Dee	r Seasons	•			
Western Washington Blacktail Deer	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	588	2 pt. min. or antler- less
	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	558, 636, 681	2 pt. min. or antler- less
				460, 466, 506 through 520, 524, 530, 556, 560, 572, 601, 607 through 618, 638, 648, 673, and Long Island	Any deer, except buck only in GMUs 506, 530, and 673
	Nov. 22-Dec. 31	Nov. 21-Dec. 31	Nov. 20-Dec. 31	407, 410, 454, 505, 603, 624, 627, 642, 652, 660 through 672	Any deer, except buck only in GMU 672
				437	2 pt. min. or antler- less
Eastern Washington	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	145, 178	3 pt. min. or antler- less
Mule Deer	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. (( <del>15</del> )) <u>8</u>	127	3 pt. min. or antler- less
		Nov. 21-Dec. 8	Nov. 20-Dec. 8	209, 215, 233, 243, <u>247,</u> 250, 346, 352, 364, 368	3 pt. min.
				272	3 pt. min. or antler- less
Eastern Washington Whitetail Deer	Nov. 10-Dec. 15	Nov. 10-Dec. 15	Nov. 10-Dec. 15	101	Any Whitetail
	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	209, 215, 233, 272	Any Whitetail
				145, 178	3 pt. min. or antler- less

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Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
Eastern	Nov. 22-Dec.15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	105, 117, 121, 124	Any Whitetail
Washington				127	3 pt. min. or antler-
Whitetail Deer					less

Muzzleloader Deer Seasons

License Required: A valid big game hunting license which includes a deer species option.

Tag Required: Valid muzzleloader deer tag on his/her person for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equip-

ment.

Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units	Legal Deer
High Buck Hunts	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten and Olympic Peninsula Wilderness Areas, Lake Chelan Recreation Area and that part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail.	3 pt. min.
Early Muzzleloade	er Deer Seasons		<del>-</del>		
Western Washington Blacktail Deer	Oct. 7-11	Oct. 6-10	Oct. 5-9	407, 418, 426, 448, 501, 504, 505, 513, 520, 530, 554, 568, 603, 612, 624, 627, 638, 642, 660, 663, 672, 673, 684	Any buck
				410, 454, 564, 652, 666	Any deer
			n	437, 578	2 pt. min.
Eastern Washington Whitetail Deer	Oct. 7-11	Oct. 6-10	Oct. 5-9	209, 239, 243, 244, 245, 246, 250, 251, 284, 381	Whitetail, any buck
				133, 142, 145, 149	Whitetail, 3 pt. min.
				109, 117, 124	Whitetail, any deer
Eastern Washington Mule Deer	Oct. 7-11	Oct. 6-10	Oct. 5-9	109, 117, 133, 142, 145, 149, 209, 239, 243, 244, 245, 246, 250, 251, 284, 336, 352, 360, 381(( <del>[,]</del> )), 382	Mule deer, 3 pt. min. except any deer in that part of GMU 381 west of Highway 395 and State Route 17
Youth and Disable	d Hunters				
Eastern Washing- ton Deer			Oct. 5-9	209 through 242, 248, 260, 269	Any deer
Late Muzzleloader	Deer Seasons				
Western Washington Blacktail Deer	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	410, 501, 504, 564, 666, 684, and Muzzle- loader Area 926	Any deer
				654	2 pt. min.
				550, 602, 633, 651	Any buck
	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	578	2 pt. min.
Eastern Washington Whitetail Deer	Nov. 22-Dec. 15	Nov. 21-Dec. 8	Nov. 20-Dec. 8	113	Whitetail, any deer
	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	130, 139, 172, 181, 284	Whitetail, 3 pt. min. or antlerless
Eastern Washington Mule Deer	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	130, 284, 381	Mule deer, 3 pt. min. or antlerless
	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	382	3 pt. min.
	·		<del></del>		· · · · · · · · · · · · · · · · · · ·

Firearm Restricted Deer Hunts Open To All Deer Hunters

License Required: Hunting license.

Tag Required: Valid modern firearm, archery or muzzleloader deer tag on his/her person for the area hunted.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs. In firearm restriction areas, modern firearm hunters may hunt with a muzzleloader equipped with a scope.

	nd deer tag required. M dgun only. Hunter oran		d in compliance with ta	g. Check firearm restrictions. Archery, shotg	un, muzzleloader or
Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
Western Washington Blacktail Deer	Oct. 14-31	Oct. 13-31	Oct. 12-31	410, Vashon and Maury Islands	Any deer
Diacktaii Deei	Nov. 22-Dec. 31	Nov. 21-Dec. 31	Nov. 20-Dec. 31	564	Any deer
	Sept. 1-Dec. 31	Sept. 1- Dec. 31	Sept. 1-Dec. 31	Indian Island. Restricted Access.*	Any deer

Special Deer Permit Hunting Seasons

(Open to Permit Holders Only)

Hunters must purchase a deer hunting license prior to purchase of a permit application.

Hunt Name	(( <del>2001</del> )) <u>2002</u> Permit Season	Special Restrictions	Boundary Description	(( <del>2001</del> )) <u>2002</u> Permits
Modern Firearm Deer P	Permit Hunts (Only moder	n firearm and muzzleload	ler deer tag holders may a	ipply)
	with weapon in complianc			
Sherman	Oct. (( <del>13-26</del> )) <u>12-25</u>	Whitetail, Antlerless	GMU 101	(( <del>200</del> )) <u>150</u>
Kelly Hill	Oct. (( <del>13-26</del> )) <u>12-25</u>	Whitetail, Antlerless	GMU 105	(( <del>200</del> )) <u>250</u>
Threeforks	Oct. (( <del>13-26</del> )) <u>12-25</u>	Whitetail, Antlerless	GMU 109	((4 <del>00</del> )) <u>500</u>
Selkirk	Oct. (( <del>13-26</del> )) <u>12-25</u>	Whitetail, Antlerless	GMU 113	50
49 Degrees North	Oct. (( <del>13-26</del> )) <u>12-25</u>	Whitetail, Antlerless	GMU 117	(( <del>200</del> )) <u>300</u>
Huckleberry	Oct. (( <del>13-26</del> )) <u>12-25</u>	Whitetail, Antlerless	GMU 121	(( <del>500</del> )) <u>1000</u>
Mt. Spokane	Oct. (( <del>13-26</del> )) <u>12-25</u>	Whitetail, Antlerless	GMU 124	(( <del>1000</del> )) <u>1200</u>
Mica Peak	Oct. (( <del>13-21</del> )) <u>12-20</u>	Whitetail, Antlerless	GMU 127	(( <del>160</del> )) <u>200</u>
Cheney	Oct. (( <del>13-21</del> )) <u>12-20</u>	Antlerless	GMU 130	(( <del>150</del> )) <u>200</u>
Roosevelt	Nov. (( <del>5-15</del> )) <u>4-14</u>	Antlerless	GMU 133	(( <del>450</del> )) <u>500</u>
Harrington	Nov. (( <del>5-15</del> )) <u>4-14</u>	Antlerless	GMU 136	125
Steptoe A	(( <del>Nov. 5-15</del> )) <u>Oct. 12-</u> 20	Antlerless	GMU 139	(( <del>250</del> )) <u>200</u>
Steptoe B	Nov. 4-14	<u>Antlerless</u>	<u>GMU 139</u>	<u>200</u>
Almota A	(( <del>Nov. 5-15</del> )) <u>Oct. 12-</u> 20	Antlerless	GMU 142	250
Almota B	Nov. 4-14	<u>Antlerless</u>	<u>GMU 142</u>	<u>250</u>
Mayview A	(( <del>Nov. 5-15</del> )) <u>Oct. 12-</u> 20	Antlerless	GMU 145	(( <del>700</del> )) <u>350</u>
Mayview B	Nov. 4-14	<u>Antlerless</u>	<u>GMU 145</u>	<u>350</u>
Prescott A	Nov. (( <del>5-15</del> )) <u>4-14</u>	Antlerless	GMU 149	400
Prescott B	Nov. (( <del>5-15</del> )) <u>4-14</u>	Antlerless	That portion of GMU 149 (( <del>north and east of</del> )) <u>between</u> Hwy 261 <u>and Hwy 127</u>	(( <del>175</del> )) <u>100</u>
Blue Creek	Nov. (( <del>5-15</del> )) <u>4-14</u>	Whitetail, Antlerless	GMU 154	(( <del>200</del> )) <u>225</u>
Dayton A	Nov. (( <del>5-15</del> )) <u>4-14</u>	Whitetail, Antlerless	GMU 162	(( <del>250</del> )) <u>350</u>
Dayton B	Nov. 4-14	Antlerless	GMU 162, excluding National Forest Lands and the Rainwater Wildlife Area	<u>50</u>
Marengo A	Nov. (( <del>5-15</del> )) <u>4-14</u>	Whitetail, Antlerless	GMU 163	(( <del>200</del> )) <u>250</u>

ì	Hunt Name	(( <del>2001</del> )) <u>2002</u> Permit Season	Special Restrictions	Boundary Description	(( <del>2001</del> )) <u>2002</u> Permits
	Marengo B	Nov. (( <del>5-15</del> )) <u>4-14</u>	Antlerless	GMU 163	75
	Peola	Nov. (( <del>5-15</del> )) <u>4-14</u>	Antlerless	GMU 178	(( <del>150</del> )) <u>100</u>
	Blue Mtns. Foothills A	Nov. (( <del>5-20</del> )) <u>4-21</u>	Any Whitetail	GMUs 149, 154, 162-166	100
	Blue Mtns. Foothills B	Nov. (( <del>5-20</del> )) <u>4-21</u>	Any Whitetail	GMUs 145, 172-181	50
	Couse	Nov. 4-14	Antlerless	GMU 181	<u>50</u>
	East Okanogan	Nov. 1-15	Any Whitetail	GMU 204	100
	West Okanogan	Nov. 1-15	Any Whitetail	GMUs 209, 218-242	100
	Sinlahekin <u>A</u>	Nov. 1-15	Any Whitetail	GMU 215	50
	Sinlahekin B	Nov. 1-15	Antlerless, Whitetail	<u>GMU 215</u>	<u>50</u>
	Chewuch	Nov. 1-15	Any Buck	GMU 218	30
	Pearrygin	Nov. 1-15	Any Buck	GMU 224	35
	Gardner	Nov. 1-15	Any Buck	GMU 231	25
	Pogue	Nov. 1-15	Any Buck	GMU 233	15
	Chiliwist	Nov. 1-15	Any Buck	GMU 239	25
	Alta	Nov. 1-15	Any Buck	GMU 242	30
	Manson	Nov. 1-15	Any Buck	GMU 243	(( <del>15</del> )) <u>5</u>
	Chiwawa	Nov. 1-15	Any Buck	GMU 245	(( <del>15</del> )) <u>30</u>
	Slide Ridge	Nov. 1-15	Any Buck	GMU 246	(( <del>15</del> )) <u>5</u>
	Entiat	Nov. 1-15	Any Buck	GMU 247	(( <del>15</del> )) <u>30</u>
	Big Bend A	Oct. (( <del>13-21</del> )) <u>12-20</u>	Antlerless	GMU 248	(( <del>50</del> )) <u>75</u>
	Big Bend C	Nov. 1-15	Antlerless	GMU 248	(( <del>50</del> )) <u>75</u>
	Swakane	Nov. 1-15	Any Buck	GMU 250	(( <del>15</del> )) <u>30</u>
	Mission A	Nov. 1-15	Any Buck	GMU 251	(( <del>15</del> )) <u>30</u>
	Mission C	Oct. 12-20	<u>Antlerless</u>	GMU 251	<u>100</u>
	St. Andrews	Oct. (( <del>13-21</del> )) <u>12-20</u>	Antlerless	GMU 254	(( <del>50</del> )) <u>75</u>
	Withrow	Oct. (( <del>13-21</del> )) <u>12-20</u>	Antlerless	GMU 262	(( <del>50</del> )) <u>75</u>
	Foster Creek A	Oct. (( <del>13-21</del> )) <u>12-25</u>	Antlerless	GMU 260	100
	Foster Creek B	Nov. 1-15	<u>Antlerless</u>	GMU 260	<u>100</u>
	Badger	Nov. 1-15	Antlerless	GMU 266	(( <del>75</del> )) <u>100</u>
	Beezeley East	Oct. (( <del>13-21</del> )) <u>12-20</u>	Antlerless	That part of GMU	(( <del>300</del> )) <u>100</u>
				272 (( <del>in Grant</del>	
				County)) east and	
				north of State Route 17	
	Beezeley West	Oct. 12-20	Antlerless	That part of GMU	<u>100</u>
				272 west and south of	
	//17 - 1-1 - 4	0.4 12 21	A 41 1	State Route 17	100
	(( <del>Kahlotus</del>	Oct. 13-21	Antlerless	GMU-284	<del>100</del> ))
	Desert A	Nov. 1-15	Any Deer	GMU 290	15
	Desert B	Nov. (( <del>19-</del> ))25 <u>-Dec. 1</u>	Antlerless	GMU 290	50
	Quilomene A	Nov. (( <del>7-22</del> )) <u>4-17</u>	Any Buck	GMU 329	(( <del>100</del> )) <u>103</u>
	Umtanum A	Nov. (( <del>7-22</del> )) <u>4-17</u>	Any Buck	GMU 342	(( <del>90</del> )) <u>109</u>
	Alkali A	Nov. (( <del>7-22</del> )) <u>28-Dec. 7</u>	Any Buck	GMU 371	(( <del>85</del> )) <u>78</u>
	Alkali B	Nov. (( <del>7-22</del> )) <u>28-Dec. 7</u>	Antlerless	GMU 371	75
	East Klickitat	Oct. (( <del>13-21</del> )) <u>12-20</u>	Any Deer	GMU 382	(( <del>50</del> )) <u>40</u>

	(( <del>2001</del> )) <u>2002</u>	Special	Boundary	(( <del>2001</del> )) <u>2002</u>
Hunt Name	Permit Season	Restrictions	Description	Permits
Snoqualmie	Nov. (( <del>1-11</del> )) <u>2-10</u>	Any Buck	GMU 460	(( <del>500</del> )) <u>200</u>
Green River A	Oct. $((6-10-13))$ 26-31	Any Buck	GMU 485	(( <del>20</del> )) <u>15</u>
Lincoln	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 501	(( <del>60</del> )) <u>50</u>
Stella	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 504 <sup>b</sup>	(( <del>55</del> )) <u>45</u>
Mossyrock	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 505	(( <del>115</del> )) <u>105</u>
Stormking	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 510	(( <del>55</del> )) <u>45</u>
South Rainier	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 513	(( <del>55</del> )) <u>45</u>
Packwood	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 516	(( <del>75</del> )) <u>65</u>
Winston	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 520	(( <del>75</del> )) <u>65</u>
Yale	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 554 <sup>b</sup>	(( <del>35</del> )) <u>25</u>
Toutle A	Oct. 12-31	Any Deer	<u>GMU 556</u>	<u>40</u>
Marble <u>A</u>	Oct. (( <del>13-31</del> )) <u>12-31</u>	2 Pt. Min. or Antlerless	GMU 558	(( <del>55</del> )) <u>45</u>
Lewis River A	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 560	(( <del>75</del> )) <u>65</u>
Siouxon A	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 572	(( <del>75</del> )) <u>65</u>
Wind River A	Oct. (( <del>13-31</del> )) <u>12-31</u>	2 Pt. Min. or Antlerless	GMU 574	((4 <del>0</del> )) <u>35</u>
Wind River B	Nov. (( <del>15-18</del> )) <u>14-17</u>	2 Pt. Min.	GMU 574	(( <del>25</del> )) <u>35</u>
West Klickitat A	Oct. (( <del>13-31</del> )) <u>12-31</u>	2 Pt. Min. or Antlerless	GMU 578	(( <del>50</del> )) <u>40</u>
West Klickitat B	Nov. (( <del>15-18</del> )) <u>14-17</u>	2 Pt. Min	GMU 578	(( <del>35</del> )) <u>45</u>
Grayback A	Oct. (( <del>13-31</del> )) <u>12-31</u>	2 Pt. Min. or Antlerless	GMU 588	(( <del>200</del> )) <u>180</u>
Grayback B	Nov. (( <del>15-18</del> )) <u>14-17</u>	2 Pt. Min	GMU 588	(( <del>50</del> )) <u>65</u>
Pysht <sup>c</sup>	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 603	40
Olympic	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 621	(( <del>30</del> )) <u>35</u>
Coyle	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 624	(( <del>30</del> )) <u>25</u>
Kitsap	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 627	20
Mason Lake A	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 633	(( <del>5</del> )) <u>20</u>
Skokomish	Oct. (( <del>13-31</del> )) <u>12-31</u>	2 Pt. Min. or Antlerless	GMU 636	80
Wynoochee A	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 648	110
Wynoochee B	Nov. 1-11	Any Buck	GMU 648	10
Satsop A	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 651	150
Satsop B	Nov. 1-11	Any Buck	GMU 651	10
North River	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 658	100
Minot Peak	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 660	(( <del>100</del> )) <u>90</u>
Capitol Peak A	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 663	(( <del>140</del> )) <u>120</u>
Capitol Peak B	Nov. 1-11	Any Buck	GMU 663	10
Deschutes	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 666	80
Skookumchuck A	Oct. (( <del>13-31</del> )) <u>12-31</u>	Any Deer	GMU 667	200
Skookumchuck B	Nov. 1-11	Any Buck	GMU 667	10
Crean Diver deer and all	nermit holders may hunt h	ear and cougar in GMII 485	with hear and cougar	tags during permit

<sup>&</sup>lt;sup>a</sup>Green River deer and elk permit holders may hunt bear and cougar in GMU 485 with bear and cougar tags during permit season.

# Muzzleloader Only Deer Permit Hunts (Only muzzleloader tag holders may apply.)

Green Bluff	Dec. (( <del>8-31</del> )) <u>9-31</u>	Whitetail, Antlerless	That portion of GMU 124	(( <del>90</del> )) <u>120</u>
			east of Hwy 2	

Permanent [58]

<sup>&</sup>lt;sup>b</sup>Firearm Restriction Areas - Muzzleloader or archery equipment only.

<sup>&</sup>lt;sup>e</sup>Permit not valid on Merrill and Ring Tree Farm.

Blue Mtns. Foothills C	Nov. (( <del>21</del> )) <u>22</u> -Dec. (( <del>8</del> )) <u>9</u>	Any Whitetail	GMUs 149, 154, 162-166	60
Wannacut	Nov. 1-15	<u>Antlerless</u>	GMU 209	<u>50</u>
Moses Coulee	Dec. 1-31	Antlerless	GMU 269	(( <del>50</del> )) <u>100</u>
Desert C	Oct. (( <del>22-28</del> )) <u>21-</u> <u>27</u>	Any Deer	GMU 290	4
Quilomene B	Oct. 1-10	Any Buck	GMU 329	(( <del>11</del> )) <u>12</u>
Umtanum B	Oct. 1-10	Any Buck	GMU 342	(( <del>9</del> )) <u>12</u>
Alkali C	(( <del>Sept. 30 Oct. 6</del> )) Dec. 8-15	Any Buck	GMU 371	(( <del>12</del> )) <u>10</u>
Alkali D	(( <del>Sept. 30 Oct. 6</del> )) Dec. 8-15	Antlerless	GMU 371	(( <del>8</del> )) <u>10</u>
Mason Lake B	Oct. (( <del>6-10</del> )) <u>5-9</u>	Antlerless	GMU 633	(( <del>30</del> )) <u>40</u>
Satsop C	Oct. (( <del>6-10</del> )) <u>5-9</u>	Any Deer	GMU 651	50
-	it Hunts (Only archer	y deer tag holders may app	oly.)	
Desert D	Sept. (( <del>16</del> )) <u>14</u> -Oct. (( <del>5</del> )) <u>6</u>	Any Deer	GMU 290	(( <del>62</del> )) <u>104</u>
Quilomene C	Nov. $((23))$ <u>18</u> -Dec. $((8))$ <u>2</u>	Any Deer	GMU 329	(( <del>[126]</del> )) <u>115</u>
Umtanum C	Nov. (( <del>23</del> )) <u>18</u> -Dec. (( <del>8</del> )) <u>2</u>	Any Deer	GMU 342	(( <del>45</del> )) <u>62</u>
Alkali E	((Nov. 23 Dec. 8)) Dec. 16-29	Any Deer	GMU 371	(( <del>85</del> )) <u>76</u>
Special Deer Permit Hunt	s for Hunters 65 or ol	der.		
Blue Mtns. Foothills D	Oct. (( <del>13-21</del> )) <u>12-</u> 20	3 Pt. Min. or Antlerless	GMUs 145, 149, 181	150
Special Youth Deer Permi	t Hunts (Must be eligi	ble for the youth hunting li	cense and accompanied by an a	dult during
the hunt.)	· · ·	•	•	· ·
Blue Mtns. Foothills E	Oct. (( <del>13-21</del> )) <u>12-</u> 20	Any Deer	GMUs 149, 154, 162-166	100
Blue Mtns. Foothills F	Oct. (( <del>13-21</del> )) <u>12-</u> 20	Any Deer	GMUs 145, 172-181	75
Mission <u>B</u>	Oct. (( <del>13-21</del> )) <u>12-</u> 20	Any Deer	GMU 251	(( <del>50</del> )) <u>100</u>
Quilomene D	(( <del>Oct. 13-21</del> )) <u>Nov.</u> 4-17	Antlerless	GMU 328	(( <del>75</del> )) <u>110</u>
Umtanum D	(( <del>Oct. 13-21</del> )) <u>Nov.</u> 4-17	Antlerless	GMU 342	(( <del>75</del> )) <u>110</u>
East Klickitat B	Oct. 12-20	Any Deer	GMU 382	<u>10</u>
Lincoln B	Oct. 12-31	Any Deer	GMU 501	<u>10</u>
Stella B	Oct. 12-31	Any Deer	GMU 504	<u>10</u>
Mossyrock B	Oct. 12-31	Any Deer	GMU 505	<u>10</u>
Stormking B	Oct. 12-31	Any Deer	<u>GMU 510</u>	<u>10</u>
South Rainier B	Oct. 12-31	Any Deer	GMU 513	<u>10</u>
Packwood B	Oct. 12-31	Any Deer	GMU 516	<u></u>
Winston B	Oct. 12-31	Any Deer	GMU 520	<u>10</u>
Yale B	Oct. 12-31	Any Deer	GMU 554	<u>10</u>
Toutle <u>B</u>	Oct. (( <del>13-31</del> )) <u>12-</u>	Any Deer	GMU 556	(( <del>100</del> )) <u>60</u>
<del></del>	31	,	-	(( )) <u></u>

Marble B	Oct. 12-31	Any Deer	<u>GMU 558</u>	<u>10</u>
Lewis River B	Oct. 12-31	Any Deer	<u>GMU 560</u>	<u>10</u>
Siouxon B	Oct. 12-31	Any Deer	GMU 572	<u>10</u>
Wind River C	Oct. (( <del>13</del> )) <u>12</u> -31	2-Pt. Min. or Antlerless	GMU 574	(( <del>75</del> )) <u>40</u>
West Klickitat C	Oct. 12-31	Any Deer	<u>GMU 578</u>	<u>10</u>
Grayback C	Oct. 12-31	Any Deer	<u>GMU 588</u>	<u>20</u>
Satsop (( $\in$ )) $\underline{D}$	Oct. 10-31	Any Deer	GMU 651	10
Skookumchuck C	Oct. ((6)) <u>5</u> -31	Any Deer	GMU 667	60
Special Deer Permit Hu	unts for Advanced Hur	nter Education Graduates		
Fisher Island A	Sept. 1-Oct. 11	Any Black-tailed Deer	Deer Area 051	<u>7</u>
Fisher Island B	Oct. 12-Nov. 30	Any Black-tailed Deer	Deer Area 051	<u>7</u>

AMENDATORY SECTION (Amending Order 01-69, filed 4/26/01, effective 5/27/01)

WAC 232-28-279 2000-2002 Elk general seasons and  $((\frac{2001}{-}))$  2002-2003 special permits.

**Bag Limit:** One (1) elk per hunter during the ((2001)) 2002 hunting season.

**Hunting Method:** Elk hunters must select only one of the hunting methods (modern firearm, archery, or muzzleloader).

Elk Tag Areas: Elk hunters must choose either Eastern or Western Washington to hunt in and buy the appropriate tag for that area.

Any Bull Elk Seasons: Open only to the taking of male elk with visible antlers (bull calves are illegal).

Spike Bull Restrictions: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branched antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

**Spike Only GMUs:** 145-154, 162-186, 249-251, 328, 329, and 335-368.

3 Point Restriction: Legal bull elk taken must have at least 3 antler points on one side only. Antler points may include eye guards, but antler points on the lower half of the main beam must be at least four (4) inches long measured from antler tip to nearest edge of beam; all other antler points must be at least one (1) inch long. Antler restrictions apply to all hunters during any open season.

3 Point GMUs: All of Western Washington except for GMUs 454, 564, 568, 574, 578, and 588 and Muzzleloader Area 941.

GMUs Closed to Elk Hunting: 418 (Nooksack), and 437 (Sauk) except for ML Elk Area 941, 485 (Green River), 490 (Cedar River), 522 (Loo-wit) and 636 (Skokomish).

Special Permits: Only hunters with elk tag prefix identified in the Special Elk Permits tables may apply for special bull or antlerless permits. Please see permit table for tag eligibility. Hunters drawn for a special permit may hunt only with a weapon in compliance with their tag and during the dates listed for the hunt.

### Elk Tag Areas

Eastern Washington: All 100, 200, and 300 GMUs except permit only in GMUs 127 and 130 for modern firearm hunters and permit only for all hunters in GMUs 157 and 371. Modern firearm restrictions in GMU 334.

EA - Eastern Washington Archery Tag

EF - Eastern Washington Modern Firearm General Elk Tag

EM - Eastern Washington Muzzleloader Tag

Western Washington: All 400, 500, and 600 GMUs except closed in GMUs 418, 437 (except for Muzzleloader Area 941), 485, 490, 522, 636 and modern firearm restrictions in portions of GMU 660. GMU 554 is open only for early archery and muzzleloader seasons. Elk Area 064 in GMU 638 (Quinault) is open to AHE hunters only. Elk hunting by permit only in GMUs 524, 556, 621, and PLWMA 600 (Pysht).

WA - Western Washington Archery Tag

WF - Western Washington Modern Firearm General Elk Tag

WM - Western Washington Muzzleloader Tag

## Modern Firearm Elk Seasons

**License Required:** A valid big game hunting license with an elk tag option.

**Tag Required:** Valid modern firearm elk tag as listed below on his/her person for the area hunted.

**Hunting Method:** May use rifle, bow and arrow, or muzzle-loader, but only during modern firearm seasons.

Permanent [60]

Hunt Area	Elk Area	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Eastern Washington	EF	109 east of Aladdin-Northport Road, 113 through 117, 124 east of Hwy 395	Oct. 28-Nov. 5	Oct. 27-Nov. 4	Oct. 26-Nov. 3	Any bull
		157				Permit only
		145 through 154, 162 through 186, 249, that part of GMU 250 south of Hwy 2, 251, 328, 329, 335 through 368	Oct. 28-Nov. 5	Oct. 27-Nov. 4	Oct. 26-Nov. 3	Spike bull
		372(( <del>, 382</del> ))	Sept. 1-Oct. 13	Sept. 1-15	(( <del>Sept. 1-15</del> )) <u>Aug.</u> 31-Sept.13	Antlerless
			Oct. 28-Nov. 5	Oct. 1-5	(( <del>Oct. 1-5</del> )) <u>Sept.</u> 14-15	(( <del>Antlerless</del> )) <u>Any elk</u>
					Oct. 6-7	<u>Antlerless</u>
		•		Oct. 6-15	Oct. (( <del>6-15</del> )) <u>8-11</u>	Any elk
			Dec. 9-13	Oct. 27-Nov. 4	Oct. 26-Nov. 3	Any elk
		101, 105, <u>109 west of Aladdin-Northport Road</u> , 121, 124 west of Hwy 395, 127-142, <u>382</u>	Oct. 28-Nov. 5	Oct. 27-Nov. 4	Oct. 26-Nov. 3	Any elk
Western Washington	WF	407, 448, 460, 466, 504 through 520, 530, 550, 558, 560, 572, 601 through 618, 624 through 633, 638 through 684. Except AHE hunters only in Elk Area 064 in GMU 638, and Elk Area 066 in GMU 660.	Nov. 4-12	Nov. 3-11	Nov. 2-10	3 pt. min.
		501	Nov. 4-12	Nov. 3-11	Nov. 2-10	3 pt. min. or antl- erless
	ŀ	564, 568, 574 through 588	Nov. 4-12	Nov. 3-11	Nov. 2-10	Any elk
7		454	Nov. 4-12	Nov. 3-11	Nov. 2-10	Any bull
		524, 556, 621, PLWMA 600	Nov. 4-12	Nov. 3-11	Nov. 2-10	Permit only

# **Archery Elk Seasons**

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid archery elk tag as listed below on his/her person for the area hunted.

Hunting Method: Bow and arrow only as defined by WAC 232-12-054.

Special Notes: Archery tag holders can hand only during seasons. Archery elk hunters may apply for special bull permits. Please see permit table for tag eligibility for all elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Early Archery	Elk Seasons					
Eastern EA Washington	EA	101 through 142, 243, 247, 249, 250, 334	Sept. 1-14	Sept. 1-14	Sept. 1-14	Any elk
		145 ((through 154, 162)), 149, 163 through 186	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike bull
		154, 162 excluding National Forest and Rainwater Wildlife Area, 328, 329, 330, 335, 336, 340, 352, 356, 364	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike bull or antlerless
		113-117	Sept. 1-14	Sept. 1-14	Sept. 1-14	Any elk
Western Washington	WA	454, 564, 568, 574, 578, 588	Sept. 1-14	Sept. 1-14	Sept. 1-14	Any elk
		407, 448, 501 through 505, 550, 554, 558, 560, 572, 652 <sup>a</sup> , 654, 660, 663, 666, 667 through 673, 684 and Long Island	Sept. 1-14	Sept. 1-14	Sept. 1-14	3 pt. min. or antlerless

Hunt Area	Elk Tag	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
		460, 466, 506, 510, 513, 516, 520, 530, 601, 602, 603, 612 through 618, 624 through 633, 638 through 651, ((652;)) 653, 658, ((666;)) 681. AHE hunters only in Elk Area 064 in GMU 638, and Elk Area 066 in GMU 660. Permit only in PLWMA 600 in GMU 603.	Sept. 1-14	Sept. 1-14	Sept. 1-14	3 pt. min.
Late Archery F	Elk Seasons					
Eastern	EA	101, 105, 117 through 127	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Any elk
Washington		372		Nov. 21-Dec. 8	Nov. 20-Dec. 8	Any elk
		178	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Antlerless only
		328, 335, 336, 346, 352, 364, 368	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Spike bull or antlerless
		That part of GMUs 352 and 360 south of Upper Nile Loop Road Bridge and north of Lower Nile Loop Road Bridge (near Woodshed Restaurant) and north and east of Nile elk fence.		Nov. 22-Jan. 31, 2002	Nov. 20, 2002-Jan. 31, 2003	Antlerless only
Western Washington	WA	407, 505, 652a, 666, 667, 672, 681, Elk Area 066 in GMU 660 and Long Island. In GMU 681 closed between US Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallacut River.	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	3 pt. min. or antlerless
		454, 564, 588	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	Any elk
		603, 612, 615, 638, and 648, ((and 652)) except closed in PLWMA 600 in GMU 603. AHE hunters only in Elk Area 064 in GMU 638 ((and Elk Area 066 in GMU 660)).	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	3 pt. min.
		506, 520, 530		Nov. 21-Dec. 2	Nov. 20-Dec. 1	3 pt. min. or antlerless
		506, 520, 530		Dec. 3-15	Dec. 2-15	3 pt. min.

<sup>&</sup>lt;sup>a</sup>That portion of GMU 652 bounded by Highways 167, 410, and 164. Not legal for antlerless.

#### Muzzleloader Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid muzzleloader elk tag as listed below on his/her person for the area hunted.

Hunting Method: Muzzleloader only as defined by WAC 232-12-051.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Early Muzzlelo	oader Elk Sea	isons		···		
Eastern Washington	ЕМ	109, 247	Oct. 7-13	Oct. 6-12	Oct. 5-11	Any bull
		127 through 142	Oct. 7-13	Oct. 6-12	Oct. 5-11	Any elk
		172, 245, 250, 251 <sup>b</sup> , 342, 356, 368	Oct. 7-13	Oct. 6-12	Oct. 5-11	Spike bull
<del>-</del>		ML 911	Aug. 19-Sept. 10	Aug. 15-Sept. 15	Aug. 15-Sept. 15	Spike bull or antlerless

Hunt Area	Elk Tag	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
		That part of GMU 368 east of the following boundary: Jump Off Road and the power lines to South Fork Cowiche Creek, west along South Fork Cowiche Creek to Road A 5500, east on A 5500 Road and south on A 5000 Road to North Fork Ahtanum Creek Road, south and west on North Fork Ahtanum Creek Road to A 2000, A 2000 to A 2400 Road, A 2400 Road to A 1000 Road and South Fork of Ahtanum Creek.	Oct. 7-13	Oct. 6-12	Oct. 5-11	Spike bull or Antlerless
Western WM Washington	WM	454, 564, 568, 684	Oct. 7-13	Oct. 6-12	Oct. 5-11	Any elk
		460, 504, 513, 530, 554, 602, 603, 607, (( <del>652,</del> )) 654, 660	Oct. 7-13	Oct. 6-12	Oct. 5-11	3 pt. min.
		501 <u>, 652ª, 666, 667</u>	Oct. 7-13	Oct. 6-12	Oct. 5-11	3 pt. min. or antlerless
Late Muzzlelo	ader Elk Seas	sons				
Eastern Washington	ЕМ	101, 105, 121, that part of 124 west of Hwy 395		Oct. 27-Nov. 4	Oct. 26-Nov. 3	Any Elk
_		130 through 142	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Any elk
		346	Nov. 11-15	Nov. 10-14	Nov. 9-13	Spike bull or antlerless
		ML Area 944	Nov. 22-Dec. 8			Spike bull or antlerless
		ML Area 911		Dec. 1-31	Dec. 1-31	Spike bull or antlerless
		That part of GMU 368 east of the following boundary: Jump Off Road and the power lines to South Fork Cowiche Creek, west along South Fork Cowiche Creek to Road A 5500, east on A 5500 Road and south on A 5000 Road to North Fork Ahtanum Creek Road, south and west on North Fork Ahtanum Creek Road to A 2000, A 2000 to A 2400 Road, A 2400 Road to A 1000 Road and South Fork of Ahtanum Creek.	Nov. 11-15	Nov. 10-14	Nov. 9-13	Spike bull or antlerless
Western Washington	WM	501, 505 <u>, 652</u> ª <u>, 666, 667</u>	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	3 pt. min. or antlerless
	1.	454, 564, 568, 684	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	Any elk
		574, 578	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Any elk
		504 550 601(( 652))	Nov. 22 Dec. 15	Nov. 21 Dec. 15	May 20 Dec 15	2 pt min

<sup>a</sup>That portion of GMU 652 bounded by Highways 167, 410, and 164. Not legal for antlerless.

504, 550, 601((<del>, 652</del>))

<sup>b</sup>GMU 251 (Mission) closed in the following area: Beginning at the junction of Naneum Ridge (WDFW Rd. 9) and Ingersol (WDFW Rd. 1) roads; north and east on Ingersol Road to Colockum Road; east on Colockum Road and Colockum Creek to the Columbia River; south on the Columbia River to mouth of Tarpiscan Creek; west up Tarpiscan Creek and Tarpiscan Road (WDFW Rd. 14) and North Fork Road (WDFW Rd. 10.10) to Colockum Rd. (WDFW Rd. 10); southwest on Colockum Road to the Naneum Ridge Road (WDFW Rd. 9); west on Naneum Ridge to Ingersol to the point of beginning.

## **Special Elk Hunts Open to Specified Tag Holders**

**License Required:** A valid big game hunting license with an elk tag option.

Nov. 20-Dec. 15

Nov. 21-Dec. 15

**Tag Required:** Proper elk tags are listed with each GMU below.

Hunting Method: Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below. In firearm restriction areas modern firearm hunters may hunt with a muzzleloader equipped with a scope.

Nov. 22-Dec. 15

3 pt. min.

Hunt Area	Elk Tag	Game Management Units	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Eastern Washington	EA, EM, EF	127 through 142, Advanced Hunter Education Graduates only.	Dec. 9-31	Dec. 9-31	Dec. 9-31	Any elk
		Grant, Adams, Douglas, Frank- lin, Okanogan, and Benton (south of the Yakima River), and Chelan County (north of Hwy 2, except closed within 1/2 mile of the Columbia River in Douglas and Grant counties)	Oct. 28-Nov. 15	Oct. 27-Nov. 15	Oct. 26-Nov. 15	Any elk
	ЕМ	ML Area 911, Advanced Hunter Education Graduates only.	Nov. 24-Dec. 3	Nov. 24-30	Nov. 23-30	Spike bull or antierless
Western Washington	WF	568, 574, 578, 588	Nov. 4-12	Nov. 3-11	Nov. 2-10	Any elk
•	WF, WA, WM	564 (archery and muzzleloader methods only, modern firearm elk tag holders may hunt, but must use archery, muzzleloader or revolver type handgun equip- ment)	Nov. 4-12	Nov. 3-11	Nov. 2-10	Any elk
	WM	Muzzleloader Area 941 (muzzleloader only)	11/1/2000 - 1/31/2001	11/1/2001 - 1/31/2002	11/1/2002 - 1/31/2003	Any elk
	WA	Muzzleloader Area 941 (archery only)	Oct. 1-31	Oct. 1-31	Oct. 1-31	Any elk

Special Elk Permit Hunting Seasons
(Open to Permit Holders Only)
Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper tag for these hunts (see elk tag prefix required to apply for each hunt).

Hunt Name	(( <del>2001</del> )) <u>2002</u> Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	(( <del>2001</del> )) <u>2002</u> Permits
Modern Firearm Bul	l Permit Hunts				
Blue Creek A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMU 154	3
Watershed <sup>e</sup>	(( <del>[Oct. 27-Nov.4]</del> )) Oct. 26-Nov. 3	3 Pt. Min. or Ant- lerless	EA, EF, EM	GMU 157	40
(( <del>Dayton A</del>	Oct. 22-Nov. 4	Any Bull	EF	GMU-162	6
Tucannon A	Oct. 22-Nov. 4	Any Bull	EF	Part of GMU 166	2))
Wenaha A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMU 169	5
Mountain View A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMU 172	(( <del>8</del> )) <u>5</u>
Couse A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMU 181	1
((Grande Ronde A	Oct. 22-Nov. 4	Any Bull	EF	GMU 186	<del>1</del> ))
Naneum A	Oct. 21-Nov. 3	Any Bull	<u>ef</u>	<u>GMU 328</u>	<u>6</u>
Quilomene A	Oct. 21-Nov. 3	Any Bull	<u>EF</u>	<u>GMU 329</u>	<u>8</u>
Teanaway A	Oct. 21-Nov. 3	Any Bull	<u>EF</u>	<u>GMU 335</u>	<u>6</u>
Peaches Ridge A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMUs 336, 346	(( <del>86</del> )) <u>103</u>
Goose Prairie A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMUs 352, 356	(( <del>176</del> )) <u>114</u>
Bethel A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMU 360	(( <del>120</del> )) <u>64</u>

	(( <del>2001</del> )) <u>2002</u>	Special	Elk Tag	Boundary	(( <del>2001</del> )) <u>2002</u>
Hunt Name	Permit Season	Restrictions	Prefix	. · Description	Permits
Rimrock A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMU 364	(( <del>103</del> )) <u>112</u>
Cowiche A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Bull	EF	GMU 368	(( <del>26</del> )) <u>28</u>
Margaret A	Nov. (( <del>3-11</del> )) <u>2-10</u>	3 Pt. Min.	WF	GMU 524	18
Toutle A	Nov. (( <del>3-11</del> )) <u>2-10</u>	3 Pt. Min.	WF	GMU 556	90
Olympic A	Nov. (( <del>3-11</del> )) <u>2-10</u>	3 Pt. Min.	WF	GMU 621 <sup>h</sup>	21

ePermit season is open for archery and muzzleloader, but hunt is the same as modern firearm and all hunters must wear hunter orange.

<sup>&</sup>lt;sup>h</sup>That part of GMU 621 south of the BPA power lines.

			l muzzieloader elk tag holders n	
Madam Linearn	n till Parmit Hunte (t	iniv madarn tirogrin gnd	i mil77ielnaner elk tad nniners n	124 V ALBIBITO. )

Modern Firearm E	lk Permit Hunts (Only n	iodern firearm a	ind muzzieloader ei	k tag holders may appi	
Three Forks	Oct. (( <del>27</del> )) <u>26</u> -Nov. ((4)) <u>3</u>	Any Elk	EF or EM	GMU 109	15
<u>Selkirk</u>	Oct. 26-Nov. 3	Any Elk	EF or EM	<u>GMU 113</u>	<u>15</u>
49 Degrees North	Oct. (( <del>27</del> )) <u>26</u> -Nov. ((4)) <u>3</u>	Any Elk	EF or EM	G <b>M</b> U 117	15
Mount Spokane	Oct. (( <del>27</del> )) <u>26</u> -Nov. ((4)) <u>3</u>	Any Elk	EF or EM	124 (E. of SR 395)	(( <del>50</del> )) <u>75</u>
Blue Creek E	Oct. (( <del>22</del> )) <u>26</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMUs 149, 154	(( <del>50</del> )) <u>100</u>
Dayton (( <del>D</del> )) A <sup>n</sup>	Oct. (( <del>22</del> )) <u>26</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMUs 162, 163 <sup>i</sup>	(( <del>100</del> )) <u>200</u>
Dayton Bi	Oct. 26-Nov. 3	<u>Antlerless</u>	EF or EM	GMU 162 <sup>n</sup> , 163	<u>50</u>
Shushuskin((i)) j	Dec. 1-31	Antlerless	EF or EM	Elk Area 031	75
Malaga A <sup>((i))</sup> j	(( <del>Sept. 1-Oct. 1</del> )) <u>Aug.</u> 17-Sept. 29	Antlerless	EF or EM	Elk Area 032	(( <del>65</del> )) <u>75</u>
Malaga B <sup>((i))</sup> j	(( <del>Nov. 10 Dec. 31</del> )) Sept. 7-15	(( <del>Antlerless</del> )) <u>Any Elk</u>	EF or EM	Elk Area 032	(( <del>75</del> )) <u>10</u>
Malaga C	Nov. 4-Dec. 31	<u>Antlerless</u>	EF or EM	Elk Area 032	<u>75</u>
Malaga E	Nov. 11-17	Any Elk	EF or EM	Elk Area 032	<u>5</u>
Peshastin A <sup>j</sup>	(( <del>Dec. 1-31</del> )) <u>Aug. 17-</u> 25	(( <del>Any Elk</del> )) <u>Antlerless</u>	EF or EM	Elk Area 033	(( <del>5</del> )) <u>20</u>
Peshastin B	Aug. 19-25	Any Elk	EF or EM	Elk Area 033	<u>5</u>
Peshastin C	Sept. 16-29	<u>Antlerless</u>	EF or EM	Elk Area 033	<u>20</u>
Peshastin D	Sept. 21-29	Any Elk	EF or EM	Elk Area 033	<u>5</u>
Peshastin E	Nov. 30-Jan. 12, 2003	<u>Antlerless</u>	EF or EM	Elk Area 033	<u>20</u>
Peshastin F	Dec. 7-Jan. 12, 2003	Any Elk	EF or EM	Elk Area 033	<u>5</u>
West Bar A	Oct. 22-31	Antlerless	EF or EM	GMU 330	10
West Bar B	Nov. 1-4	Antlerless	EF or EM	GMU 330	10
Taneum	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 336	(( <del>[200]</del> )) <u>200</u>
Manastash	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 340	400
Observatory A	Oct. (( <del>22</del> )) <u>21</u> -Nov. ((4)) <u>3</u>	Any Elk	EF <u>or EM</u>	GMUs 340, 342, 371	((4 <del>8</del> )) <u>62</u>
Umtanum A	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 342	400

<sup>((</sup>f-That part of GMU 166 west of the Tucannon River.))

			j		
Cleman <sup>j</sup>	Dec. 9-31	Antlerless	EF or EM	ML Area 944	(( <del>75</del> )) <u>100</u>
Little Naches A	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 346	250
Little Naches B	Oct. 1-10	Any Bull	EF or EM	GMU 346	25
Nile	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 352	300
Bumping	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 356	(( <del>530</del> )) <u>215</u>
Bethel B	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 360	(( <del>275</del> )) <u>105</u>
Rimrock B	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 364	(( <del>275</del> )) <u>100</u>
Cowiche B	Oct. (( <del>31</del> )) <u>30</u> -Nov. ((4)) <u>3</u>	Antlerless	EF or EM	GMU 368	180
Willapa Hills	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 506	50
Raymond A	Nov. 6-10	3-Pt. Min. or Antlerless	WF or WM	Part of GMU 506, 672 and 673 <sup>k</sup>	<u>20</u>
Raymond (( $\epsilon$ )) $\underline{B}$	Dec. ((4)) <u>16</u> -31	Antlerless	WF or WM	Part of GMUs 506, 672 and 673 <sup>k</sup>	(( <del>15</del> )) <u>30</u>
Raymond ( $(\Theta)$ ) $\underline{C}$	Jan. 1-31, (( <del>2002</del> )) 2003	Antlerless	WF or WM	Part of GMUs 506, 672 and 673 <sup>k</sup>	. 15
Raymond ( $(\mathbf{E})$ ) $\underline{\mathbf{D}}$	Feb. 1-28, (( <del>2002</del> )) 2003	Antlerless	WF or WM	Part of GMUs 506, 672 and 673 <sup>k</sup>	15
Winston	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 520	15
Margaret B	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 524	10
Ryderwood	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 530	40
Coweeman	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 550	20
Toutle B	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 556	30
Marble	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 558	60
Carlton	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 057	5
West Goat Rocks	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 058	5
Mt. Adams	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 059	5
Lewis River	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 560	75
Siouxon	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 572	50
Dungeness A	Nov. 28-Dec. 2	Antlerless	WF or WM	Part of GMU 6211	6
Dungeness B	(( <del>Nov.</del> )) Dec <u>.</u> 5-9	Antlerless	WF or WM	Part of GMU 6211	6
Dungeness C	Dec. 12-16	Antlerless	WF or WM	Part of GMU 6211	6
Satsop A	Dec. 1-15	Antlerless	WF or WM	GMU 651	(( <del>15</del> )) <u>30</u>
Puyallup A	Jan. 15-23, (( <del>2002</del> )) 2003	Antlerless	WF or WM	GMU 652	25
Mashel A	Dec. 15-23	Antlerless	WF or WM	Part of GMU 654 <sup>m</sup>	(( <del>25</del> )) <u>50</u>
Mashel B	Jan. 12-21, 2003	<b>Antlerless</b>	WF or WM	Part of GMU 654 <sup>m</sup>	<u>100</u>
North Minot A	Oct. 20-31	Antlerless	WF or WM	Elk Area 067	(( <del>30</del> )) <u>60</u>
Deschutes A	Jan. 15-23, (( <del>2002</del> )) <u>2003</u>	Antlerless	WF or WM	GMU 666	10
Williams Creek	Nov. (( <del>7-11</del> )) <u>6-10</u>	Antlerless	WF or WM	GMU 673	40
North Shore A	Nov. 6-10	<u>Antlerless</u>	WF or WM	Elk Area 068	<u>5</u>

<sup>&</sup>lt;sup>i</sup>That part of GMUs 162 and 163 excluding National Forest lands and Rainwater Wildlife Area.

Permanent

<sup>&</sup>lt;sup>j</sup>Damage hunt.

<sup>k</sup>That part of GMUs 506, 672 and 673 within 1 mile of SR 6 between the east end of elk Prairie Rd and the Mallis Landing Rd.

# Muzzleloader Bull Permit Hunts (Only muzzleloader elk tag holders may apply.)

Note	-Fir	e Closu	res may	limit	access	during	early	Oc	tober	season	าร
	_		_					~			-

Blue Creek B	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMU 154	1
(( <del>Dayton B</del>	Oct. 1-12	Any Bull	<del>EM</del>	GMU 162	+
Tucannon B	Oct. 1-12	Any Bull	<del>EM</del>	<del>GMU-166</del>	<del>1</del> ))
Wenaha C	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMU 169	1
Mountain View B	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMU 172	1
Couse B	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMU 181	1
((Grande Ronde B	Oct. 1-12	Any Bull	EM	GMU-186	1))
Naneum B	Oct. 1-11	Any Bull	<u>EM</u>	<u>GMU 328</u>	<u>1</u>
Quilomene B	Oct. 1-11	Any Bull	<u>EM</u>	<u>GMU 329</u>	<u>2</u>
Teanaway B	Oct. 1-11	Any Bull	<u>EM</u>	<u>GMU 335</u>	<u>1</u>
Peaches Ridge B	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMUs 336, 346	(( <del>11</del> )) <u>15</u>
Goose Prairie B	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMUs 352, 356	(( <del>22</del> )) <u>17</u>
Bethel C	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMU 360	(( <del>17</del> )) <u>11</u>
Rimrock C	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMU 364	(( <del>13</del> )) <u>16</u>
Cowiche C	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Bull	EM	GMU 368	(( <del>6</del> )) <u>10</u>
Margaret C	Oct. 1-(( <del>12</del> )) <u>11</u>	3 Pt. Min.	WM	GMU 524	(( <del>3</del> )) <u>4</u>
Toutle C	Oct. 1-(( <del>12</del> )) <u>11</u>	3 Pt. Min.	WM	GMU 556	(( <del>15</del> )) <u>16</u>
Olympic B	Oct. 1-(( <del>12</del> )) <u>11</u>	3 Pt. Min.	WM	GMU 621	3

# Muzzleloader Permit Hunts (Only muzzleloader elk tag holders may apply.)

Muzzieloadei i ei mit itulies (Omy muzzieloadei eik tag nolders may appris.)					
Blue Creek Ci	(( <del>12/1/01-1/31/02</del> )) <u>12/1/02-1/31/03</u>	Antlerless	EM	GMU 154	60
Columbia Ai	Dec. 1-31	Antlerless	EM	Part of GMU 162 <sup>n</sup> , 163	(( <del>50</del> )) <u>100</u>
Columbia Bi	Jan. 1-31, (( <del>2002</del> )) 2003	Antlerless	EM	Part of GMU 162 <sup>n</sup> , 163	(( <del>50</del> )) <u>100</u>
Columbia Ci	Dec. 20-Jan. 31, 2003	<u>Antlerless</u>	<u>EM</u>	<u>GMU 162</u> <sup>q</sup>	<u>50</u>
Couse Ci	Dec. 1-31	Antlerless	EM	GMU 181	25
Couse Di	Jan. 1-31, (( <del>2002</del> )) 2003	Antlerless	EM	GMU 181	25
West Bar C	Oct. 1-(( <del>12</del> )) <u>11</u>	Antlerless	EM	GMU 330	10
Observatory B	Oct. 1-(( <del>12</del> )) <u>11</u>	Any Elk	EM	GMUs 340, 342, 371	(( <del>9</del> )) <u>14</u>
Umtanum B	Oct. 6-12	Antlerless	EM	GMU 342	350
Stella A <sup>((i))</sup> j	Nov. 26-Dec. 15	Antlerless	WM	GMU 504	100
Stella B <sup>((i)) j</sup>	Jan. 1-16, (( <del>2002</del> )) 2003	Antlerless	WM	GMU 504	25
Toledo Ai	Jan. 1-16, (( <del>2002</del> )) 2003	Antlerless	WM	Elk Area 029	30
(( <del>Malaga D</del> <sup>j</sup>	Oct. 6-25	<b>Antlerless</b>	<del>EM</del>	Elk Area 032	<del>75</del>
Peshastin B <sup>j</sup>	Aug. 18-Sept. 23	Antlerless	EM	Elk-Area 033	<del>20</del> ))
Malaga Fi	Oct. 8-27	<u>Antlerless</u>	<u>EM</u>	Elk Area 032	<u>75</u>
<u>Malaga G</u> i	Oct. 8-27	Any Elk	<u>EM</u>	Elk Area 032	<u>10</u>
Mossyrock A((i)) j	Jan. 1-16, (( <del>2002</del> )) 2003	Antlerless	WM	Elk Area 052	(( <del>10</del> )) <u>20</u>

<sup>[1]</sup> That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River.

<sup>[</sup>m] That part of GMU 654 south of the Puyallup River.

Randle A <sup>((i))</sup> j	Jan. 1-16, (( <del>2002</del> )) 2003	Antlerless	WM	Elk Area 053	15
Boistfort <sup>((i))</sup> j	Jan. 1-16, (( <del>2002</del> )) 2003	Antlerless	WM	Elk Area 054	(( <del>20</del> )) <u>40</u>
Yale <sup>((i))</sup> j	Nov. 26-Dec. 15	3 Pt. Min. or Ant- lerless	WM	GMU 554	75
Satsop <u>B</u>	Oct. 6-(( <del>14</del> )) <u>11</u>	Antlerless	WM .	GMU 651	10
North River((*i)) i	Nov. 26-Dec. 15	Antlerless	WM	GMU 658	. 20
North Minot Bi	Oct. 6-(( <del>14</del> )) <u>11</u>	Antlerless	WM	Elk Area 067	(( <del>30</del> )) <u>60</u>
Raymond ((Ai)) Ei	Oct. 1-31	Antlerless	WM	Part of GMUs 506, 672 and 673 <sup>1</sup>	(( <del>15</del> )) <u>30</u>

<sup>&</sup>lt;sup>((+))</sup> <sup>1</sup>Damage hunt

# Archery Permit Hunts (Only archery elk tag holders may apply.)

Note-Fire closures may limit access during September seasons.

110te-1 ne closures may mint access during september seasons.					
Blue Creek D	Sept. 1-14	Any Bull	EA	GMU 154	2.
(( <del>Dayton C</del>	<del>Sept. 1-14</del>	Any Bull	EA	GMU-162	4
Tucannon C	<del>Sept. 1-14</del>	Any-Bull	EA	GMU-166	<del>1</del> ))
Wenaha D	Sept. 1-14	Any Bull	EA	GMU 169	2
Mountain View C	Sept. 1-14	Any Bull	EA	GMU 172	(( <del>6</del> )) <u>5</u>
Couse F	Sept. 1-14	Any Bull	EA	GMU 181	1
(( <del>Grande Ronde C</del>	<del>Sept. 1-14</del>	Any Bull	EA	GMU-186	1))
Naneum C	Sept. 1-14	Any Bull	<u>EA</u>	GMU 328	<u>35</u>
Quilomene C	Sept. 1-14	Any Bull	<u>EA</u>	GMU 329	<u>12</u>
Teanaway C	Sept. 1-14	Any Bull	<u>EA</u>	GMU 335	<u>35</u>
Peaches Ridge C	Sept. 1-14	Any Bull	EA	GMUs 336, 346	(( <del>88</del> )) <u>126</u>
Observatory C	Sept. 1-14	Any Elk	EA	GMUs 340, 342, 371	·· (( <del>40</del> )) <u>71</u>
Goose Prairie C	Sept. 1-14	Any Bull	EA	GMUs 352, 356	· 267
Bethel D	Sept. 1-14	Any Bull	EA	GMU 360	(( <del>100</del> )) <u>62</u>
Rimrock D	Sept. 1-14	Any Bull	EA	GMU 364	(( <del>87</del> )) <u>117</u>
Cowiche D	Sept. 1-14	Any Bull	EA	GMU 368	(( <del>20</del> )) <u>27</u>
Peshastin G	Sept. 1-14	Any Elk	<u>EA</u>	Elk Area 033	<u>10</u>
Margaret D	Sept. 1-14	3 Pt. Min.	WA	GMU 524	(( <del>8</del> )) <u>7</u>
Toutle D	Sept. 1-14	3 Pt. Min.	WA	GMU 556	(( <del>55</del> )) <u>61</u>
Olympic C	Sept. 1-14	3 Pt. Min.	WA	GMU 621 <sup>h</sup>	(( <del>6</del> )) <u>5</u>
Quinault	Nov. 21-Dec. 15	Antlerless	WA	That part of GMU 638 in the Quinault drainage	(( <del>20</del> )) <u>40</u>
Mashel Bi	Jan. 12-21, (( <del>2002</del> )) 2003	Antlerless	WA	Part of GMU 654 <sup>m</sup>	40
Raymond $((B^i))$ $\underline{F}^i$	Nov. 16-30	Antlerless	WA	Part of GMUs 506, 672 and 673 <sup>k</sup>	(( <del>15</del> )) <u>60</u>
Satsop C	Sept. 1-14	3 Pt. Min. or Antlerless	WA	GMU 651	(( <del>15</del> )) <u>30</u>

Permanent [68]

kThat part of GMUS 506 and 673 within 1 mile of SR6 between the east end of Elk Prairie Rd. and the Mallis Landing Rd.

<sup>&</sup>lt;sup>n</sup>That part of GMU 162 east of North Touchet Rd, excluding National Forest. Mostly private land, winter road closures in GMU 162.

<sup>&</sup>lt;sup>q</sup>That part of GMU 162 west of North Touchet Rd., excluding National Forest and Rainwater Wildlife Area.

((Tanwax Jan. 12-21, 2002 Antierless WA GMU 652, excludingareas bounded by Highways 167, 410, and 164.

## Advanced Hunter Education (AHE) Graduate Special Elk Permit Hunts (only AHE graduates may apply).

Advanced Funter Education (AFE) Graduate Special Elk Fermit Hums (only AFE graduates may apply).						
	Toledo B	Jan. 17-31, (( <del>2002</del> )) <u>2003</u>	Antlerless	Any Elk Tag	Elk Area 029	20
	Mossyrock B	Jan. 17-31, (( <del>2002</del> )) <u>2003</u>	Antlerless	Any Elk Tag	Elk Area 052	(( <del>10</del> )) <u>20</u>
	Randle B	Jan. 17-31, (( <del>2002</del> )) <u>2003</u>	Antlerless	Any Elk Tag	Elk Area 053	15
	Quinault Ridge	Oct. 1-10	3-Pt. Min or Antlerless	Any Elk Tag	GMU 638	5
	Chehalis Valley A	Sept. 15-30	Antlerless	Any Elk Tag	Elk Area 066 <sup>a</sup>	10
	Chehalis Valley B	Oct. 1-31	Antlerless	Any Elk Tag	Elk Area 066 <sup>a</sup>	10
	Chehalis Valley C	Nov. 6-10	<u>Antlerless</u>	Any Elk Tag	Elk Area 066 <sup>a</sup>	<u>30</u>
	Chehalis Valley ((C)) <u>E</u>	Nov. 15-30	Antlerless	Any Elk Tag	Elk Area 066ª	(( <del>10</del> )) <u>15</u>
	Chehalis Valley ((€)) <u>F</u>	Jan. 1-31, (( <del>2002</del> )) 2003	Antlerless	Any Elk Tag	Elk Area 066ª	(( <del>10</del> )) <u>15</u>
	Chehalis Valley ((F))	Feb. 1-28, (( <del>2002</del> )) <u>2003</u>	Antlerless	Any Elk Tag	Elk Area 066 <sup>a</sup>	(( <del>10</del> )) <u>15</u>
	Persons of Disability (	Only - Special Elk P	ermit Hunts			
	Observatory D	Oct. 24-Nov. 7	Any Elk	EF or EM	GMUs 340, 342	( <del>(5</del> )) <u>6</u>
	Little Naches C	Oct. 1-10	Any Elk	EF, EM, EA	GMU 346	( <del>(5</del> )) <u>6</u>
	Little Naches D	Oct. 30-Nov. 7	Antlerless	EF, EM, EA	GMU 346	10
	Centralia Mine A	Oct. (( <del>27-28</del> )) <u>26-</u> <u>27</u>	Antlerless	Any Elk Tag	Portion of GMU 667°	2
	Centralia Mine B	Nov. (( <del>3-4</del> )) <u>2-3</u>	Antlerless Only	Any Elk Tag	Portion of GMU 667°	2
	North Shore ((A)) $\underline{B}$	Oct. 1-31	Antlerless	Any Elk Tag	(( <del>Part of GMU 658*</del> )) Elk Area 068	5
	North Shore ((B)) C	Dec. (( <del>1-31</del> )) <u>16-</u> 31	Antlerless	Any Elk Tag	(( <del>Part of GMU 658*</del> )) Elk Area 068	5
	North Shore ((C)) D	Jan. 1-31, (( <del>2002</del> )) 2003	Antlerless	Any Elk Tag	(( <del>Part of GMU 658°))</del> Elk Area 068	5
	North Shore E	Feb. 1-28, 2003	<u>Antlerless</u>	Any Elk Tag	Elk Area 068	<u>5</u>
	Skookumchuck A	Nov. 17-25	Antlerless	Any Elk Tag	GMU 667	4
	Skookumchuck B	Dec. 6-16	Antlerless	Any Elk Tag	GMU 667	4
	Skookumchuck C	Jan. 1-31, 2003	<u>Antlerless</u>	Any Elk Tag	GMU 667	<u>10</u>
	Chehalis Valley D	Dec. 1-31	Antlerless	Any Elk Tag	Elk Area 066	15

<sup>&</sup>lt;sup>o</sup>Portion of GMU 667 within Centralia Mine.

<sup>&</sup>lt;sup>b</sup>That part of GMU 621 south of the BPA power lines.

Damage hunt.

kThat part of GMUs 506, 672 and 673 within 1 mile of SR 6 between the east end of Elk Prairie Rd and the Mallis Landing Rd.

<sup>&</sup>lt;sup>1</sup>That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River.

<sup>&</sup>lt;sup>m</sup>That part of GMU 654 south of the Puyallup River.

<sup>((</sup>PThat part of GMU 658 south and west of SR 105 between Raymond and North River Bridge.)) <sup>Q</sup>Firearm Restriction Area.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 00-254, filed 1/31/01, effective 3/3/01)

WAC 232-28-277 2001, 2002, 2003 Big game and wild turkey auction permits and raffles.

#### **BIG GAME AUCTION PERMITS**

The director will select a conservation organization(s) to conduct the 2001, 2002, and 2003 auction(s). Selection of the conservation organizations will be based on criteria adopted by the Washington department of fish and wildlife. The organization shall notify the department of the name and address of the successful bidder within ten days of the auction.

2001 AUCTION PERMIT HUNT(S)

SPECIES - ONE DEER PERMIT

Hunting season dates: September 1 - December 31, 2001 Hunt Area: Statewide EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157, 418, 485, and 522 are closed.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional any buck deer

SPECIES - ONE ELK PERMIT

Hunting season dates: September 15-30, 2001

Hunt Area: Statewide in any area open to general or permit season muzzleloader, archery, or modern firearm elk hunting during the 2001 season EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157 and 485 are closed.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One bull elk

SPECIES - ONE BIGHORN SHEEP PERMIT

Hunting season dates: September 1 - October 31, 2001 Hunt Area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), or Sheep Unit 13 (Quilomene).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One bighorn ram

SPECIES - ONE MOOSE PERMIT

Hunting season dates: October 1 - November 30, 2001 Hunt Area: Any moose unit open during the 2001 season.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One moose of either sex

SPECIES - ONE MOUNTAIN GOAT PERMIT

Hunting season dates: September 15 - October 31, 2001

Hunt Area: Goat Unit 3-6 (Naches Pass), Goat Unit 3-9 (Tieton River), Goat Unit 3-10 (Blazed Ridge), or Goat Unit 5-4 (Goat Rocks).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One mountain goat of either sex

2002 AND 2003 AUCTION PERMIT HUNT(\$)

SPECIES - ONE DEER PERMIT

Hunting season dates: September 1 - December 31, 2002 and 2003

Hunt Area: Statewide EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157, 418, 485, and 522 are closed.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional any buck deer

SPECIES - ONE WESTSIDE ELK PERMIT

Hunting Season Dates: September 1 - December 31, 2002 and 2003

Hunt Area: Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 418, 485, and 522 are closed.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag Limit: One additional any bull elk

SPECIES - ONE EASTSIDE ELK PERMIT

Hunting season dates: September 1 - December 31, 2002 and 2003

Hunt Area: Eastern Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157, 162, and 166 are closed.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional any bull elk

SPECIES - ONE BIGHORN SHEEP PERMIT

Hunting Season Dates: September 1 - October 31, 2002 and 2003

Hunt Area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), Sheep Unit 12 (Lincoln Cliffs), Sheep Unit 13 (Quilomene), or Sheep Unit 14 (Swakane).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag Limit: One bighorn ram

SPECIES - ONE MOOSE PERMIT

Hunting Season Dates: October 1 - November 30, 2002 and 2003

Hunt Area: Any open moose unit.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag Limit: One moose of either sex

SPECIES - ONE MOUNTAIN GOAT PERMIT

Hunting season dates: September 15 - October 31, 2002 and

2003

Hunt Area: Goat Unit 3-6 (Naches Pass), Goat Unit 3-9 (Tieton River), Goat Unit 3-10 (Blazed Ridge), or Goat Unit 5-4 (Goat Rocks).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One mountain goat of either sex

#### RAFFLE PERMITS

Raffle permits will be issued to individuals selected through a Washington department of fish and wildlife drawing or the director may select a conservation organization(s) to conduct the 2001, 2002, and 2003 raffle(s). Selection of a conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. The organization shall notify the department of the name and address of the individual selected, and two alternatives, within two business days of the raffle.

2001 RAFFLE PERMIT HUNT(S)

DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: Statewide EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157, 418, 485, and 522 are closed.

Open season: September 1 - December 31, 2001.

Weapon: Any legal weapon EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

## ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Statewide in any area open to general or permit season muzzleloader, archery, or modern firearm elk hunting during the 2001 season, EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157 and 485 are closed.

Open season: The elk raffle permit holder may hunt in any 2001 general or permit archery, muzzleloader, or modern firearm season.

Weapon: The raffle permit hunter may use archery equipment during archery seasons, muzzleloader equipment during muzzleloader seasons and any legal weapon during modern firearm seasons.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

**BIGHORN SHEEP RAFFLE PERMIT HUNT** 

Bag limit: One bighorn ram

Open area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), or Sheep Unit 13 (Quilomene).

Open season: September 1 - October 31, 2001. Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$10.00 including a 50-cent vendor fee.

#### MOOSE RAFFLE PERMIT HUNT

Bag limit: One moose of either sex

Open area: Hunter may hunt in any moose unit open during

the 2001 season.

Open season: October 1 - November 30, 2001. Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

#### MOUNTAIN GOAT RAFFLE PERMIT HUNT

Bag limit: One mountain goat of either sex

Open area: Goat Unit 3-6 (Naches Pass), Goat Unit 3-9 (Tieton River), Goat Unit 3-10 (Blazed Ridge), or Goat Unit 5-4 (Goat Rocks).

Open season: September 15 - October 31, 2001.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

2002 AND 2003 RAFFLE PERMIT HUNT(S)

#### DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: Statewide EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157, 418, 485, and 522 are closed.

Open season: September 1 - December 31, 2002 and 2003. Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

#### WESTSIDE ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 418, 485, and 522 are closed.

Open season: September 1 - December 31, 2002 and 2003. Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

# EASTSIDE ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: Eastern Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157, 162, and 166 are closed.

Open season: September 1 - December 31, 2002 and 2003.

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Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

#### **BIGHORN SHEEP RAFFLE PERMIT HUNT**

Bag limit: One bighorn ram

Open area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), Sheep Unit 12 (Lincoln Cliffs), Sheep Unit 13 (Quilomene), or Sheep Unit 14 (Swakane).

Open season: September 1 - October 31, 2002 and 2003.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$10.00 including a 50-cent vendor fee.

#### MOOSE RAFFLE PERMIT HUNT

Bag limit: One moose of either sex Open area: Any open moose unit.

Open season: October 1 - November 30, 2002 and 2003.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

#### MOUNTAIN GOAT RAFFLE PERMIT HUNT

Bag limit: One mountain goat of either sex

Open area: Goat Unit 3-6 (Naches Pass), Goat Unit 3-9 (Tieton River), Goat Unit 3-10 (Blazed Ridge), or Goat Unit 5-4 (Goat Rocks).

Open season: September 15 - October 31, 2002 and 2003.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle tickets cost: \$5.00 including a 50-cent vendor fee.

#### TURKEY RAFFLE PERMIT HUNTS

Bag limit: Three (3) additional wild turkeys, but not to exceed more than one turkey in Western Washington or two turkeys in Eastern Washington.

Open area: Statewide.

Open season: April 1 - May 31, 2001, 2002, and 2003.

Weapon: Archery or shotgun only.

Number of permits: 2

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

#### Auction and raffle hunt permittee rules

- (1) Permittee shall contact the appropriate regional office of the department of fish and wildlife when entering the designated hunt area or entering the region to hunt outside the general season.
- (2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a legal weapon or harvest an animal.
- (3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.
- (4) If requested by the department, the permittee is required to direct department officials to the site of the kill.
- (5) The permit is valid during the hunting season dates for the year issued.

- (6) The permittee will present the head and carcass of the bighorn sheep killed to any department office within 72 hours of date of kill.
- (7) The permittee must abide by all local, state, and federal regulations including firearm restriction areas and area closures.

# WSR 02-11-074 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration) [Filed May 13, 2002, 3:55 p.m.]

Date of Adoption: May 10, 2002.

Purpose: Amending WAC 388-517-0300 Medicare savings programs. This rule is being amended to simplify language and make it clearer.

Citation of Existing Rules Affected by this Order: Amending WAC 388-517-0300.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.530.

Adopted under notice filed as WSR 02-07-114 on March 20, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 10, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-517-0300 Medicare ((eost-sharing)) sayings programs. The Medicare savings programs help a client pay some of the costs that Medicare does not cover. When determining eligibility for these programs, the department follows the income and resource methodology of the Supplemental Security Income (SSI) program described in chapter 388-474 WAC. For a client receiving long-term care (LTC) services, refer to subsection (4) of this section.

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- (1) ((Clients eligible for the following programs receive benefits which help pay their Medicare coverage out of pocket costs:
  - (a) The qualified medicare beneficiary (QMB); and
- (b) The special low-income medicare beneficiary (SLMB) and the expanded special low income Medicare beneficiary (ESLMB); and
  - (e) The Medicare buy-in program; and
- (d) The qualified disabled working individual (QDWI); and
  - (e) The qualified individual (QI).
- (2) To be eligible for any of these programs, elients must not have countable resources which exceed the resource standard in WAC 388-478-0085(6).
- (3) Clients eligible for or receiving Medicare Part A and meeting the department's income standards have their Medicare Part A and Part B premiums, coinsurance, and deductibles paid for them under the QMB program. A person is income eligible for QMB:
- (a) When their countable income does not exceed the standard in WAC 388 478 0085(1); or
- (b) When they meet the requirements of subsection (a) if their annual Social Security cost-of living increase is not counted as income until April 1 of each year.
- (4) Clients eligible for or receiving Medicare Part A benefits and meeting the department's income standards have their Part B Medicare premium paid for them under the SLMB or ESLMB program. In determining eligibility for SLMB or ESLMB, the annual Social Security cost of living increase is not counted as income until April 1 of each year. A person is income eligible:
- (a) For SLMB when their countable income is within the range specified in 388-478-0085(2);
  - (b) For ESLMB when:
- (i) Their countable income is within the range specified in WAC 388-478-0085(3); and
- (ii) They are not otherwise eligible for categorically needy (CN) or medically needy (MN) coverage; and
- (iii) Until-Décember 31st of each year or until the date that the annual allotment of federal funds is exhausted.
- (5) Clients who are eligible for categorically needy (CN) or medically needy (MN) medical coverage, but not eligible for QMB or SLMB programs may be eligible for a third Medicare cost sharing program. If they are eligible for or receiving Medicare Part A coverage, they receive the state-funded buy-in program. Under the buy-in program the department pays the following:
  - (a) Their Medicare Part A premiums, if any; and
  - (b) Their Medicare Part B premiums; and
  - (e) Their Medicare Part B coinsurance, and deductibles.
- (6) Clients who are not eligible for QMB, SLMB or buyin may be eligible for assistance with their Medicare out of pocket costs. Clients who meet the following conditions have their Medicare Part A premium(s) paid for them under the QDWI program. A person is income eligible for QDWI when:
- (a) They are not otherwise eligible for CN or MN medical coverage; and
  - (b) They are eligible for Medicare Part A; and

- (e) Their countable income does not exceed the standard in WAC 388-478-0085(4).
- (7) Persons not eligible for any other Medicare cost sharing program discussed in this section may receive compensation of one dollar and seven cents per month under the QI program. Total reimbursement is limited to the amount of money made available for this program from the federal government. The benefit is payable annually as partial reimbursement of their Medicare Part B premiums. A person is income eligible for QI when:
- (a) They are not otherwise eligible for CN or MN medical coverage; and
- (b) Their countable income does not exceed the standard in WAC 388-478-0085(5))) The department determines a person's eligibility in the following order:
  - (a) The qualified medicare beneficiary (QMB) program;
- (b) The specified low-income medicare beneficiary (SLMB) program;
- (c) The qualified individual (QI-1) program, formerly known as the expanded special low income Medicare beneficiary (ESLMB) program;
- (d) The qualified disabled working individual (QDWI) program:
- (e) The qualified individual (QI-2) program, formerly known as the qualified individual (QI) program;
- (f) The state-funded buy-in program, formerly known as the Medicare buy-in program.
- (2) In order to be eligible for any of these programs, a person must:
  - (a) Be eligible or receiving Medicare Part A; and
- (b) For the QDWI program only, be under the age of sixty-five; and
- (c) Have nonexcluded resources at or below the resource standard, see WAC 388-478-0085(6).
- (3) A person must also meet the income standards as follows:
  - (a) For the OMB program, see WAC 388-478-0085(1);
  - (b) For the SLMB program, see WAC 388-478-0085(2);
  - (c) For the OI-1 program, see WAC 388-478-0085(3);
  - (d) For the QDWI program, see WAC 388-478-0085(4);
  - (e) For the QI-2 program, see WAC 388-478-0085(5);

# <u>and</u>

- (f) For the state-paid buy-in program, there is no maximum income limit as long as the person receives services under either categorically needy (CN) or medically needy (MN) programs.
- (4) When determining an LTC client's eligibility for Medicare savings programs, the department considers countable income and resources left after the following are deducted:
- (a) Allocations to a spouse and/or dependent family members; and
  - (b) The client's participation in the cost of care.
  - Refer to chapter 388-513 WAC for the LTC rules.
- (5) The department adjusts income standards for Medicare savings programs on April 1st of each year, see WAC 388-478-0085. The department also applies the annual Social Security cost-of-living adjustment (COLA) for these programs on April 1st of each year. Therefore, the annual COLA does not effect the eligibility of either applicants or

clients of Medicare savings programs until April 1st of each year.

- (6) The department pays the following benefits for Medicare savings program clients:
- (a) Under the QMB program: Medicare Part A if any, Part B premiums, coinsurance, deductibles as described in subsection (7) of this section, and medical expenses the client's Medicare managed care plan charges;
- (b) Under the SLMB or QI-1 programs: Only Medicare Part B premiums (see the exception under subsection (11) of this section);
- (c) Under the QDWI program: Only Medicare Part A premiums;
- (d) Under the QI-2 program: Only a part of the client's Medicare Part B premiums. The Centers for Medicare and Medicaid (CMS) determine the amount which is paid. The department pays the client on an annual basis (see the exception under subsection (11) of this section); and
- (e) Under the state-funded buy-in program: Medicare Part B premiums, coinsurance, deductibles as described in subsection (7) of this section, and medical expenses a client's Medicare managed care plan charges.
- (7) The department has certain maximum payments for services provided to Medicare savings programs clients:
- (a) Medicare co-insurance charges are paid only if the Medicaid payment rate is higher than the amount paid by Medicare, and within that limit, only the cost-sharing liability;
- (b) Dual eligible clients are those who are eligible for QMB and SLMB programs and another Medicaid program. For dual eligibles, the department's maximum payment is:
- (i) for covered services, the Medicaid or the Medicare payment rate whichever is lower; and
- (ii) for services only covered by Medicare, the Medicare deductibles and co-insurance is the maximum Medicaid payment.
- (8) The department does authorize QMB, SLMB or state-funded buy-in programs for the client receiving categorically needy (CN) or medically needy (MN) programs. The state-funded buy-in program is only for a client receiving CN or MN medical coverage who is not eligible for the QMB or SLMB programs.
- (9) The department does not authorize QI-1, QI-2, or QDWI programs for a client receiving CN or MN medical program benefits.
- (10) The department does not authorize the QI-2 program for a client who is eligible for one of the other Medicare savings programs.
- (11) When the department's annual allotment of federal funds for the QI-1 and QI-2 programs is exhausted, the department does not authorize benefits under the respective program for the remainder of that calendar year.
- (12) For certification periods for the Medicare savings programs, refer to WAC 388-416-0035.

# WSR 02-11-075 PERMANENT RULES FOREST PRACTICES BOARD

[Filed May 13, 2002, 4:13 p.m.]

Date of Adoption: May 8, 2002.

Purpose: This rule would offer clarification for SEPA guidance for forest practices consistent with a Wildlife Conservation Agreement.

Citation of Existing Rules Affected by this Order: Amending WAC 222-10-040 and 222-10-041.

Statutory Authority for Adoption: RCW 76.09.040, 43.21C.060, and 43.21C.120.

Adopted under notice filed as WSR 02-05-087 on February 20, 2002.

Changes Other than Editing from Proposed to Adopted Version: Changes include only minor corrections to references. Changes in the language proposed in the CR-102 to WAC 222-10-040(5) are not substantial. The changes to the proposed rule were made for clarification and do not change the meaning or the intent of the rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 13, 2002 Pat McElroy Chair

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-10-040 Class IV-Special threatened and endangered species SEPA policies. In addition to the SEPA policies established elsewhere in this chapter, the following policies shall apply to Class IV-Special forest practices involving threatened or endangered species.

- (1) The department shall consult with the department of fish and wildlife, other agencies with expertise, affected land-owners, affected Indian tribes, and others with expertise when evaluating the impacts of forest practices. If the department does not follow the recommendations of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.
- (2) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the

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department shall evaluate whether the forest practices reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of the survival or recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

- (3) Specific mitigation measures or conditions shall be designed to reduce any probable significant adverse impacts identified in subsection (2) of this section.
- (4) The department shall consider the species-specific policies in WAC 222-10-041 and 222-10-042 when reviewing and evaluating SEPA documents and the impacts of forest practices.
- (5) The SEPA policies in this section and the species specific SEPA policies for threatened and endangered species do not apply to forest practices that are consistent with a wildlife conservation agreement listed in WAC 222-16-080(6) for species covered by these agreements, that has received environmental review with an opportunity for public comment under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq., the Endangered Species Act, 16 U.S.C. section 1531 et seq., or the State Environmental Policy Act, chapter 43.21C RCW.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-10-041 Northern spotted owls. ((The effective date of this section is July 1, 1996.)) The following policies shall apply to forest practices subject to SEPA if the forest practices may cause adverse impacts to northern spotted owls.

- (1) In SOSEAs or areas of SOSEAs where the goal is demographic support, suitable spotted owl habitat should be maintained either to protect the viability of the owl(s) associated with each northern spotted owl site center or to provide demographic support for that particular SOSEA as described in the SOSEA goals.
- (2) In SOSEAs or areas of SOSEAs where the goal is dispersal support, either suitable spotted owl habitat should be maintained to protect the viability of the owl(s) associated with each northern spotted owl site center or dispersal habitat should be managed, over time, to provide the dispersal support for that particular SOSEA as described in the SOSEA goals. Dispersal support is provided by a landscape which includes dispersal habitat at the stand level interspersed with areas of higher quality habitat. Stands of dispersal habitat should be managed to reduce gaps between stands and to maintain a sufficient level of dispersal habitat to meet the SOSEA goals over time.
- (3) In SOSEAs or areas of SOSEAs where the goal is a combination of dispersal support and demographic support, either suitable spotted owl habitat should be maintained to protect the viability of the owl(s) associated with each northern spotted owl site center or a variety of habitat conditions should be provided which in total are more than dispersal support and less than demographic support. This can be accomplished by providing:
- (a) Dispersal support as described in subsection (2) of this section;

- (b) Areas of suitable spotted owl habitat that contain some opportunities for nesting as well as roosting and foraging habitat; and
- (c) Connectivity between areas of SOSEAs designated for demographic support or adjacent federal lands which are designated as late successional reserves, congressionally reserved areas, or administratively withdrawn areas.
- (4) Within SOSEAs, the following amounts of suitable habitat are generally assumed to be necessary to maintain the viability of the owl(s) associated with each northern spotted owl site center, in the absence of more specific data or a mitigation plan, as provided for in subsections (6) and (7) of this section respectively:
- (a) All suitable spotted owl habitat within 0.7 mile of each northern spotted owl site center;
- (b) Including the suitable spotted owl habitat identified in (a) of this subsection:
- (i) For the Hoh-Clearwater/Coastal Link SOSEA A total of 5,863 acres of suitable spotted owl habitat within the median home range circle (2.7 mile radius).
- (ii) For all other SOSEAs A total of 2,605 acres of suitable spotted owl habitat within the median home range circle (1.8 mile radius).

The department shall first identify the highest quality suitable spotted owl habitat for this purpose. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable habitat. Suitable spotted owl habitat identified outside 0.7 mile of a northern spotted owl site center may support more than one median home range circle.

Suitable spotted owl habitat harvested by a landowner shall continue to be counted as part of the total acres necessary under (b) of this subsection for other landowners within the median home range circle if the harvest is conducted pursuant to agreements or plans approved under subsection (6) of this section or WAC 222-16-080 (1)(h)(iv), (6)(a)(iv), or (f).

- (5) Outside SOSEAs, during the nesting season (between March 1 and August 31), seventy acres of the highest quality suitable spotted owl habitat surrounding a northern spotted owl site center should be maintained. The seventy acres for one site center shall not be utilized for meeting suitable habitat needs of any other site center.
- (6) The assumptions set forth in subsection (4) of this section are based on regional data. Applicants or others may submit information that is more current, accurate, or specific to a northern spotted owl site center, proposal, or SOSEA circumstances or goals. The department shall use such information in making its determinations under this section where the department finds, in consultation with the department of fish and wildlife, that the information is more likely to be valid for the particular circumstances than the assumptions established under subsection (4) of this section. If the department does not use the information, it shall explain its reasons in writing to the applicant.
- (7) The department shall consider measures to mitigate identified adverse impacts of an applicant's proposal. Mitigation measures must contribute to the achievement of SOSEA

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goals or to supporting the viability of impacted northern spotted owl site centers.

# WSR 02-11-079 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed May 14, 2002, 9:43 a.m.]

Date of Adoption: May 1, 2002.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-098, 308-96A-161, and 308-96A-275.

Statutory Authority for Adoption: RCW 46.01.110. Other Authority: RCW 46.01.100.

Adopted under notice filed as WSR 02-07-014 on March 8, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 14, 2002 Fred Stephens Director

AMENDATORY SECTION (Amending WSR 99-19-026, filed 9/8/99, effective 10/9/99)

WAC 308-96A-098 Surrender and disposition of license plates. (1) What license plates are required to be surrendered? Only license plates authorized under RCW 46.16.301 ((and)), 46.16.280, 46.16.305, and 46.16.595 and dealer/manufacturer plates are required to be surrendered under chapter 308-66 WAC. Wreckers and scrap processors, hulk haulers ((shall)) must dispose of license plates according to ((ehapter 308-65)) WAC 308-63-070(7) and 308-63-120(4).

- (2) Where do I surrender my Washington vehicle license plates? You may surrender your Washington vehicle license plates in the following manner:
  - (a) Take them to your local vehicle licensing office;
- (b) Mail them to the department of licensing in Olympia, Washington.

- (3) What do Washington vehicle licensing offices do with surrendered license plates?
- (a) License plates surrendered to Washington vehicle licensing offices will be invalidated to make them unusable;
- (b) Washington vehicle licensing offices will recycle or otherwise dispose of the invalidated plates that have been surrendered.
- (4) If I choose to dispose of the Washington vehicle license plates that are no longer valid, how is this done? Other than license plates indicated in subsection (1) of this section, you may dispose of your invalid Washington vehicle license plates in the following ways:
- (a) Remove or invalidate the month and year tabs and bend the plates so they are no longer usable;
  - (b) Shred the entire license plate; or
- (c) After the month and year tab have been removed or invalidated, recycle the license plate in such a way that it cannot be confused with a valid Washington license plate.
- (5) How does the department dispose of my surrendered Washington vehicle license plate? Once the department has received the Washington vehicle license plate, it ((shall)) must surrender ((them)) it to the department of general administration for disposal under RCW 43.19.1919.

AMENDATORY SECTION (Amending WSR 99-19-026, filed 9/8/99, effective 10/9/99)

WAC 308-96A-161 Fleet registration. (1) What is the purpose of the fleet program? The department recognizes and understands that there are businesses and individual registered owners within the state of Washington that have a valid need to license all their vehicles on the same date and receive a single billing notice. The purpose of the fleet program is to provide such a process.

- (2) What types of fleet programs are available? There are two types of fleet programs:
- (a) Regular fleet To participate in the regular fleet program, the owner(s) must:
- (i) Have five or more vehicles, all currently registered for highway use; and
- (ii) All vehicles participating must be titled and registered in exact name agreement (letter for letter and space for space); and
- (iii) All vehicles participating will be assigned a December 31 annual expiration. Monthly gross weight license may be purchased for vehicles participating in the regular fleet program; and
- (iv) A fleet account will be established by the department and a fleet identifier code issued to the participant.
- (b) Permanent fleet To participate in the permanent fleet program, the owner must:
- (i) Have one hundred or more vehicles ((used for commercial purpose)) all currently registered for highway use; and
- (ii) ((All participating vehicles must be currently registered for highway use; and
- (iii))) <u>Have all</u> ((vehicles)) participating ((must be)) vehicles titled and registered in exact name agreement (letter for letter and space for space); and

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(((iv))) (iii) Have all participating vehicles ((participating will receive)) assigned a December 31 annual expiration. Monthly gross weight license may not be purchased for vehicles participating in the permanent fleet program however, gross weight increase can be purchased throughout the year.

A fleet account will be established by the department and a fleet identifier code issued to the participant.

- (3) ((How do I)) Who does a fleet owner contact to join the fleet program? Any owner who ((qualifies to participate in the fleet program)) meets the qualifications may contact the department or your local Washington vehicle licensing office.
- (4) Are there any vehicles that may not be part of a fleet? Yes, there are vehicles that may not be part of a fleet. Those vehicles include:
  - (a) Snowmobiles;
- (b) Trailers with plates issued a permanent license plate under RCW 46.16.068;
- (c) Vehicles licensed as daily rental under RCW 82.44.023; ((and)) or
- (d) Any vehicle not required to annually renew. (Prorate vehicles registered under the international registration program (chapter 46.87 RCW) cannot be part of this fleet program).
- (5) ((When)) Will the department remove me from the fleet program? Yes, the department will remove ((you)) a participant from the fleet program at ((your)) their request or if ((you fail to maintain)) the required minimum number of currently registered vehicles is not maintained for the chosen fleet program. The fleet identifier code will be automatically canceled and will cause removal of all of the ((owner's)) participant's vehicles from the chosen fleet program.

AMENDATORY SECTION (Amending WSR 99-19-026, filed 9/8/99, effective 10/9/99)

WAC 308-96A-275 Assignment of fleet registration expiration. (1) When do fleet vehicle registrations expire? Fleet vehicle registrations expire December 31 annually.

- (2) How does the department adjust registration fees to assign a December 31 registration expiration date for a fleet vehicle?
- (a) When you add an unlicensed vehicle to your fleet, you will be charged for the number of month((2))s from the date of the current registration month to December 31st. The fees are abated to correspond with the number of months of registration purchased. For example:
- (i) If you add a vehicle to your <u>new or existing</u> fleet between October 1 and December 30 of the current year, you will be required to purchase more than twelve months of registration to obtain a December 31 vehicle registration expiration date for the following December 31;
- (ii) If you add a vehicle to your <u>new or existing</u> fleet between February 1 and September 30, you will be required to purchase less than twelve months of registration to obtain a December 31 vehicle registration expiration date for the current year;
- (iii) If you add a vehicle to your <u>new or existing</u> fleet between December 31 and January 31, you will be required

to purchase twelve months of registration to obtain a vehicle registration expiration date for the next year.

- (b) When you add a currently registered vehicle to your new or existing fleet, the number of month((2))s registration fees abated from the date of current registration expiration to December 31, as applied in (a) of this subsection not to exceed eighteen months;
- (c) The department will charge a full month's fees for any partial month.

# WSR 02-11-080 PERMANENT RULES UTILITIES AND TRANSPORTATION COMMISSION

[General Order No. R-499, Docket No. UT-991922—Filed May 14, 2002, 1:27 p.m., effective June 17, 2002]

In the matter of amending, adopting, and repealing chapter 480-121 WAC, relating to registration, competitive classification, and initial price lists of telecommunications companies, and WAC 480-120-052 Prepaid calling services and 480-120-058 Protection of customer prepayments.

1 STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 01-22-110, filed with the code reviser on November 7, 2001. The commission brings this proceeding pursuant to RCW 80.01.040 and 80.04.160.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

- 3 DATE OF ADOPTION: The commission adopts this rule to be effective June 17, 2002.
- 4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325 requires that the commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the reasons for adopting the rule, a summary of the comments received regarding the proposed rule, and responses reflecting the commission's consideration of the comments.
- 5 The commission often includes a discussion of those matters in its rule adoption order. In addition, most rule-making proceedings involve extensive work by commission staff that includes summaries in memoranda of stakeholder comments, commission decisions, and staff recommendations in each of those areas.
- 6 In this docket, to avoid unnecessary duplication, the commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing and at the open meetings where the commission considered whether to begin a rule making and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

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7 REFERENCE TO AFFECTED RULES: This order repeals the following sections of the Washington Administrative Code:

WAC 480-121-010

Filing of registration application, competitive classification petition, and price list.

WAC 480-121-023

When a supplemental application is required.

WAC 480-121-030

Additional information.

WAC 480-121-050

Cancellations.

WAC 480-121-070

Petition for competitive classification.

WAC 480-120-052

Prepaid calling services.

WAC 480-120-058

Protection of customer prepayments.

8 This order amends the following sections of the Washington Administrative Code:

WAC 480-121-015

Exemptions from rules.

WAC 480-121-020

Requirements for registration applications, competitive classification petitions, and price lists.

WAC 480-121-026

Rejection of registration application, competitive classification petition, and price list.

WAC 480-121-040

Grant or denial of registration.

WAC 480-121-060

Revocation of registration.

WAC 480-121-061

Classification proceedings.

WAC 480-121-062

Content of petition for classification of competitive telecommunications services and companies.

WAC 480-121-063

Waiver of regulatory requirements for competitive telecommunications companies.

WAC 480-121-064

Investigations.

9 This order adopts the following sections of the Washington Administrative Code:

WAC 480-121-011

Application of rules.

WAC 480-121-016

Additional requirements.

WAC 480-121-017

Severability.

WAC 480-121-018

Delivery of a filing.

WAC 480-120-127

Protecting customer prepayments.

WAC 480-120-264

Prepaid calling services.

10 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on December 23, 1999, at WSR 00-02-010.

11 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the commission was considering entering a rule making on a comprehensive review of chapter 480-121 WAC relating to registration, competitive classification, and price lists of telecommunications companies. In addition, the statement advised interested persons that the commission would consider review of registration-related rules codified in chapter 480-120 WAC and other chapters. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all regulated telecommunications companies and the commission's list of telecommunications attorneys as well as the commission's list of interested persons of telecommunications related rule makings. The commission posted the relevant rule-making information on its internet web site at www.wutc.wa.gov.

12 Prior to filing its rule proposal, the commission solicited written comments and held workshops relating to the content of rules that address registration, competitive classification, and price lists of telecommunications companies, prepaid calling services, and protection of customer prepayments. After considering and incorporating many of the suggestions made by stakeholders, the commission offered the draft proposed rules for comment.

13 MEETINGS OR WORKSHOPS; ORAL COMMENTS: The commission held three workshops to address movement of rules between chapters, incorporation of advances in technology into the registration process, suggested changes to existing rules, and the renaming of chapter 480-121 WAC. The following companies, organizations, and individuals attended some or all of the workshops: AT&T Communications of the Pacific Northwest, Inc., CenturyTel of Washington, Inc., Electric Lightwave, Inc., GTE Northwest Incorporated and GTE Communications Corporation, Janet Bernadette, Kalama Telephone Company, NEXTLINK Washington, Inc., Public Counsel, Qwest Corporation (Qwest), Sprint Corporation, Tenino Telephone Company, Verizon Northwest, Inc. (Verizon), Washington Independent Telephone Association, Washington Telecommunications Ratepayers Association for Cost-based and Equitable Rates, Whidbey Telephone Company, and WorldCom, Inc. (WorldCom).

14 All rules were discussed at the workshops. Items of greatest interest included discussions relating to electronic filing, and registration and competitive classification requirements. Agreement was reached on most issues raised by various stakeholders. Comments on which agreement was not reached are discussed below.

15 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on November 7, 2001, at WSR 01-22-110. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 01-22-110 at 9:30 a.m., Wednesday,

December 12, 2001, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission. On December 12, 2001, the commission continued the adoption hearing to 1:30 p.m., Wednesday, January 9, 2002.

16 COMMENTERS (WRITTEN COMMENTS): During the rule-making process, the commission called for six rounds of comments on discussion drafts of rules. Following the notice of proposed rule making (CR-102), the commission received written comments from the following companies: Qwest, Verizon, and WorldCom. Agreement was reached on most issues raised by various stakeholders. Comments on which agreement was not reached are discussed below.

17 RULE-MAKING HEARING: The original rule proposal was considered for adoption, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on January 9, 2002, before Chairwoman Marilyn Showalter, and Commissioner Richard Hemstad, and Commission[er] Patrick J. Oshie.

18 The commission heard oral comments from Teri Wallace and Glenn Blackmon representing commission staff, Judith Endejan representing Verizon, and Theresa Jensen representing Qwest.

19 SUGGESTIONS FOR CHANGE THAT ARE REJECTED: The following suggested change to the original proposal was not adopted for the reasons explained below.

20 WAC 480-121-020(3). Qwest proposes that the commission modify the introduction in WAC 480-121-020(3) from "may" to "will." Qwest contends that WAC 480-121-020(3) appears to be written in response to RCW 80.36.350 which states that the commission may deny registration to any telecommunications company which: (1) Does not provide the information required by this section; (2) fails to provide a performance bond, if required; (3) does not possess adequate financial resources to provide the proposed service; or (4) does not possess adequate technical competency to provide the proposed service. Qwest acknowledges that the current rule also states "may" at subsection (4). Qwest argues that RCW 80.36.350 requires a showing of items one through four above. Once such a showing occurs, the commission may approve an application for registration or may deny such if the showing is inadequate. Qwest does not believe RCW 80.36.350 provides the latitude proposed in WAC 480-121-020(3).

21 The commission disagrees with Qwest's statutory interpretation and its proposal. Nothing in RCW 80.36.350 mandates the change of "may" to "will" advocated by Qwest. WAC 480-121-040 restates the statutory requirements. RCW 80.36.350 only requires applicants to include name and address of company, name and address of any registered agent, name, address and title of each officer or director, most current balance sheet, latest annual report, if any, and a description of the services it intends to offer. Any additional information is discretionary with the commission.

22 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission

repealed, adopted, amended the rules in the CR-102 at WSR 01-22-110 with the changes described below.

23 CHANGES FROM PROPOSAL: The commission adopted the proposal with the following changes from the text noticed at WSR 01-22-110.

24 At the request of Verizon language is added to clarify WAC 480-121-020 relating to the requirements for applications for registration, petitions for competitive classification, and initial price lists.

25 At the request of Verizon WAC 480-121-062 (5)(h) is deleted.

26 Language is revised in WAC 480-120-052 to clarify "Time of use disclosure requirements" in response to comments received by Verizon.

27 WAC 480-121-011 Application of rules is corrected to reference RCW 80.01.040 and chapter 80.04 RCW in its entirety.

28 The commission renumbered WAC 480-120-052 Prepaid calling services to WAC 480-120-264 and renumbered and retitled WAC 480-120-058 Protection of customer prepayments to WAC 480-120-127 Protecting customer prepayments.

29 Other nonsubstantive grammar and punctuation changes were made after a final review by the commission.

30 SUPPLEMENTAL NOTICE OF PROPOSED RULE MAK-ING: The commission filed a supplemental notice of proposed rule making (supplemental CR-102) on March 13, 2002, at WSR 02-07-041. The supplemental CR-102 carved out two rules from the original proposal filed under WSR 01-22-110. This proposal would delete WAC 480-121-020 (2)(d) and amend WAC 480-121-063 (l)(m). The commission scheduled this matter for oral comment and adoption under Notice No. WSR 02-07-041 at 9:30 a.m., Wednesday, April 24, 2002, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

31 COMMENTERS (WRITTEN COMMENTS): Following the supplemental CR-102, the commission received written comments from Qwest that addressed issues unrelated to the two rules that are the subject of the supplemental CR-102.

32 RULE-MAKING HEARING: The supplemental rule proposal was considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on April 24, 2002, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner Patrick J. Oshie.

33 The commission heard oral comments from Teri Wallace, representing commission staff, and Lisa Anderl representing Qwest.

34 SUGGESTIONS FOR CHANGE THAT ARE REJECTED: The following suggested changes to the original proposal were not adopted for the reasons explained below.

35 WAC 480-121-020 Requirements for applications for registration, petitions for competitive classification, and initial price lists. Qwest reiterates its proposal that the introduction in WAC 480-121-020(3) be modified from "may" to "will." Qwest maintains that WAC 480-121-020(3)

appears to be written in response to RCW 80.36.350 and does not provide the latitude proposed at WAC 480-121-020(3). According to Qwest, RCW 80.36.350 requires the applicant to demonstrate to the commission that it possesses adequate financial resources and technical competency to provide the proposed service(s). Qwest asserts that such a demonstration is not optional.

36 The commission continues to disagree with Qwest's statutory interpretation and its proposal. Nothing in RCW 80.36.350 mandates the change of "may" to "will."

- 37 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission repealed, amended, and adopted the rules in the CR-102 at WSR 02-07-041.
- 38 CHANGES FROM PROPOSAL: The commission adopted the proposal with the following changes from the text noticed at WSR 02-07-041.
- 39 Nonsubstantive grammar and punctuation changes were made after a final review by the commission.

40 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-121-010, 480-121-023, 480-121-030, 480-121-050, 480-121-070, 480-120-052, and 480-120-058 should be repealed.

41 The commission determines that WAC 480-121-015, 480-121-020, 480-121-026, 480-121-040, 480-121-060, 480-121-061, 480-121-062, 480-121-063, and 480-121-064 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on June 17, 2002.

42 The commission determines that WAC 480-121-011, 480-121-016, 480-121-017, 480-121-018, 480-120-127, and 480-120-264 should be adopted to read as set forth in Appendix A and B, as rules of the Washington Utilities and Transportation Commission, to take effect on June 17, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

#### ORDER

43 THE COMMISSION ORDERS:

44 WAC 480-121-010, 480-121-023, 480-121-030, 480-121-050, 480-121-070, 480-120-052, and 480-120-058 are repealed.

45 WAC 480-121-015, 480-121-020, 480-121-026, 480-121-040, 480-121-060, 480-121-061, 480-121-062, 480-121-

063, and 480-121-064 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on June 17, 2002.

46 WAC 480-121-011, 480-121-016, 480-121-017, 480-121-018, 480-120-127, and 480-120-264 are adopted to read as set forth in Appendix A and B, as rules of the Washington Utilities and Transportation Commission, to take effect on June 17, 2002.

47 This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 14th day of May, 2002.

Washington Utilities and Transportation Commission
Marilyn Showalter, Chairwoman
Richard Hemstad, Commissioner
Patrick J. Oshie, Commissioner

#### **NEW SECTION**

WAC 480-121-011 Application of rules. (1) The rules in this chapter apply to any telecommunications company that is subject to the jurisdiction of the commission as to rates and services under the provisions of RCW 80.01.040 and chapters 80.04 and 80.36 RCW.

- (2) Price list provisions filed by telecommunications companies must conform with these rules. If the commission accepts a price list that conflicts with these rules, the acceptance does not constitute a waiver of these rules unless the commission specifically approves the variation consistent with WAC 480-121-015. Price lists that conflict with these rules without approval are superseded by these rules.
- (3) Any affected person may ask the commission to review the interpretation of these rules by a telecommunications company or customer by posing an informal complaint under WAC 480-09-150 (Informal complaints) or by filing a formal complaint under WAC 480-09-420 (Pleadings and briefs—Applications for authority—Protests).
- (4) No deviation from these rules is permitted without written authorization by the commission. Violations will be subject to penalties as provided by law.

AMENDATORY SECTION (Amending Order R-464, filed 6/15/99, effective 7/16/99)

WAC 480-121-015 Exemptions from rules in chapter 480-121 WAC. (1) The commission may grant an exemption from the provision of any rule in this chapter, ((when doing so is)) if consistent with the public interest, with the purposes underlying regulation( $(\frac{1}{2})$ ) and with applicable statutes.

- (2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought ((and)), giving a full explanation of the reason for requesting the exemption ((is requested)).
- (3) The commission will assign the request a docket number, if ((needed,)) it does not arise in an existing docket,

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and <u>will</u> schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date <u>of the hearing or open meeting when</u> the commission will consider the request.

- (4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the petitioner, of a degree or a kind different from hardship imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purposes of the rule.
- (5) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-09 WAC.

# **NEW SECTION**

WAC 480-121-016 Additional requirements. (1) These rules do not relieve any telecommunications company from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains the authority to impose additional or different requirements on any telecommunications company in appropriate circumstances, consistent with the requirements of law.

#### **NEW SECTION**

WAC 480-121-017 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

### **NEW SECTION**

WAC 480-121-018 Delivery of a filing. (1) The commission will accept an application, petition for competitive classification, and initial price list filing delivered in person, by mail, fax, or (when procedures are in place) electronic means. The commission will stamp a filing received on Saturdays, Sundays, and state holidays, or after 5:00 p.m., Pacific time, as received on the next business day.

- (2) In person or by mail.
- (a) In order to be deemed received on a given day, the commission records center must receive an original and two copies of the filing by 5:00 p.m., Pacific time.
- (b) A filing delivered by mail must be free from all charges for postage. The commission records center will return any postage-due filing to the sender.
  - (3) Fax filing.
- (a) The commission must receive an original and two copies of the filing the following business day.
- (b) The commission will use the date and time the fax filing is received and printed at the records center as the official file date.
- (c) The commission records center must receive a faxed filing in its entirety by 5:00 p.m., Pacific time, Monday

through Friday, except on state holidays, to be considered received on that business day.

- (4) Electronic filing.
- (a) An electronic filing must conform to commission procedures for electronic filing.
- (b) After accepting an electronic filing, the commission will return an electronic mail message noting the receipt date.

AMENDATORY SECTION (Amending Order R-464, filed 6/15/99, effective 7/16/99)

WAC 480-121-020 Requirements for <u>applications for</u> registration ((applications)), ((competitive classification)) petitions <u>for competitive classification</u>, and <u>initial</u> price lists. (1) Applications for registration ((must:

- (a) Be in the form prescribed by the commission;
- (b) Comply with the rules set forth in chapter 480-120 WAC; and
- (c) Be accompanied by the applicant's current balance sheet, latest annual report, if any, and a description of the telecommunications service it intends to offer)) and petitions for competitive classification must be in the form prescribed by the commission.
- (2) ((Petitions for competitive classification must meet the requirements of WAC 480-120-023)) Applications for registration:
- (a) Must be filed with a petition for competitive classification and an initial price list unless applicant will not be subject to effective competition;
- (b) Must comply with the rules set forth in chapters 480-80 and 480-120 WAC;
- (c) Must be filed at the office of the commission in Olympia, Washington; and
- (d) Will be assigned a docket number. All documents subsequently filed in the matter must bear that docket number.
- (3) ((Price-lists must-meet the requirements of WAC 480-120-027:)) The commission may require, with or without hearing, that an applicant for registration clearly show:
- (a) Adequate financial resources to provide the proposed service;
- (b) Adequate technical competence to provide the proposed service; and
- (c) Compliance with all applicable federal, state, and local telecommunications technical and business regulations.
- (4) ((As a condition to registration, with or without hearing,)) The commission may ((require)) request that an applicant ((elearly show that:
- (a) The applicant possesses adequate financial resources to provide the proposed service;
- (b) The applicant possesses adequate technical competence to provide the proposed service;
- (c) The applicant is in compliance with all applicable federal, state and local telecommunications technical and business regulations.
- (5) The commission may request an applicant to provide information regarding the applicant's regulatory performance in other states in which it operates.

(6) Applicants intending to collect customer prepayments must meet the requirements of WAC 480-120-058.

(7) Applicants collecting customer deposits pursuant to WAC 480-120-056 may be required to procure a bond or establish a federally insured interest-bearing trust account)) provide information regarding the applicant's regulatory performance in other states where it operates.

<u>AMENDATORY SECTION</u> (Amending Order R-464, filed 6/15/99, effective 7/16/99)

WAC 480-121-026 ((Rejection of registration application, competitive classification petition, and price list.))
Rejecting a filing. ((Registration applications, competitive classification petitions, and price lists not in substantial compliance with these rules and chapter 480-120 WAC will be rejected by the commission and returned to the applicant.))
The commission may reject any filing that does not comply with commission rules.

AMENDATORY SECTION (Amending Order R-464, filed 6/15/99, effective 7/16/99)

WAC 480-121-040 ((Grant or denial of)) Granting or denying petitions for registration. ((An application may be granted-without hearing upon a determination by the commission that the application is consistent with the public interest, that the applicant meets the requirements of this-section and RCW 80.36.350 and that the applicant has provided adequately for the protection of customer deposits or prepayments. The application may be set for hearing in accordance with notice issued by the commission. If, after-hearing, the commission-finds that registration is not consistent with the public interest, or that the applicant does not meet the requirements of RCW-80:36.350, or that customer deposits or prepayments cannot be adequately protected, it will deny the application.)) (1) The commission secretary may grant an application for registration without hearing when the application is on a form prescribed by the commission and contains the following:

- (a) The name and address of the company;
- (b) The name and address of its registered agent, if any;
- (c) Name, address, and title of each officer or director;
- (d) The most current balance sheet;
- (e) The latest annual report, if any; and
- (f) A description of the telecommunications services it offers or intends to offer.
- (2) The commission ((will)) <u>may</u> deny an application for registration ((submitted by an alternate operator services provider)) if, after hearing, the commission finds that the ((operator services offered by the company or the charges for those services are)) <u>application is</u> not consistent with the public interest or that the applicant:
- (a) Failed to provide the information required by RCW 80.36.350;
- (b) Failed to provide the performance bond described in RCW 80.36.350 and WAC 480-120-127, if required;
- (c) Does not possess adequate financial resources to provide the proposed service; or

- (d) Does not possess adequate technical competency to provide the proposed service.
- (3) The commission may deny an application for registration submitted by an alternate operator services company if, after hearing, the commission finds that the services or charges offered by the company are not consistent with the public convenience and advantage.

AMENDATORY SECTION (Amending Docket No. U-991301, General Order R-464, filed 6/15/99, effective 7/16/99)

WAC 480-121-060 ((Revocation of)) Revoking a registration. (1) The commission may revoke a registration, after notice and opportunity for a hearing, for good cause. Good cause includes, but is not limited to, failure to:

- (((1))) (a) File an annual report;
- (((2))) (b) Pay regulatory fees;
- ((<del>(3)</del> Comply with the requirements of WAC-480-120-058;
  - (4))) (c) Provide adequate service;
- (((5))) (d) Maintain ((correct contact information, including)) the telecommunications company's current address and telephone number; or
- $((\frac{(6)}{(e)}))$  (e) Comply with <u>all</u> applicable federal, state, and local telecommunications ((and)) business <u>and technical</u> regulations((; or
- (7) Comply with applicable federal, state, and local technical regulations imposed on the carrier)).

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-481, filed 4/4/01, effective 5/5/01)

WAC 480-121-061 ((Classification proceedings.))
General requirements to classify a telecommunications
company as competitive or to classify a service provided
by a telecommunications company as competitive. (1)
((Rules of practice and procedure applicable. The rules of
practice and procedure before the commission, chapter 48008-WAC, shall apply generally to proceedings to classify a
telecommunications company as a competitive telecommunications company or a service as a competitive telecommunications service.

- (2))) Initiation of classification proceedings. A telecommunications company ((shall initiate a)) requesting competitive classification ((proceeding by filing)) must file a petition with the commission. The petition must state the effective date of the requested classification, which must be at least thirty days after the filing date. The commission may initiate a competitive classification proceeding on its own motion by order instituting investigation.
- (((3) Notice to affected companies and public counsel. The commission shall serve a copy of the petition or its order upon all telecommunications companies which may be affected by the proceeding, and upon the public counsel section of the office of the attorney general. Service by the commission shall be made as provided in WAC 480-08-060(4). Alternatively, the commission may direct petitioner to serve

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a copy of the petition upon such parties as the commission directs. Service by petitioner shall be made in accordance with WAC 480-08-060(3).

- (4) Notice to customers of classification proceeding. The commission may require a telecommunications company to give notice of the pendency of the classification proceeding. The commission shall determine the manner and distribution of notice.
- (5) Appearances and)) (2) Intervention. Any person desiring to participate in a <u>competitive</u> classification proceeding may petition to intervene as provided in WAC ((480-08-070)) 480-09-430.
- (((6) Commission may require appearance.)) (3) Additional parties. In any competitive classification proceeding the commission may require all regulated telecommunications companies potentially affected by the proceeding to appear as parties to determine ((their)) the proper classification of the affected companies.
- (((7))) (4) Burden of proof. In any <u>competitive</u> classification proceeding, the telecommunications company ((shall have)) <u>has</u> the burden of demonstrating that the company or ((services at issue are)) <u>specific service(s)</u> is subject to effective competition. ((Effective competition means that customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base. In determining whether a service is competitive, factors the commission shall consider include, but are not limited to:
- (a) The number and size of alternative providers of services;
- (b) The extent to which services are available from alternative providers in the relevant market;
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (d) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

A telecommunications company will not be classified as competitive unless it demonstrates that the telecommunications services it offers are subject to)) (5) Effective competition. Effective competition means that customers of the service(s) have reasonably available alternatives and that the company does not have a significant captive customer base for the service(s). The commission will consider the factors outlined in RCW 80.36.320 (1)(a) through (d) when determining whether a company is competitive.

(6) The competitive classification becomes effective on the stated effective date unless the commission suspends the proposed classification. If the commission suspends a proposed classification, it will enter a final order within six months from the date the petition was filed.

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-481, filed 4/4/01, effective 5/5/01)

WAC 480-121-062 ((Content of)) Requirements for filing a petition for competitive classification of ((compet-

- itive)) a telecommunications service((s and companies)). ((In addition to the requirements of WAC 480-08-050(13), a petition for classification of a competitive telecommunications service or a competitive telecommunications company shall, at a minimum, be accompanied with the following:)) A petition for competitive classification of a telecommunications service must, at a minimum, include:
- (1) The name and address of the ((petitioner)) petitioning company;
- (2) The name and telephone number of regulatory contact;
  - (3) A description of the services it offers;
- (((3))) (4) The names and addresses of any entities ((which)) that would be classified as "affiliated interests" of the petitioner ((pursuant to)) as defined in RCW 80.16.010; and
- (((4) A statement of the services the petitioner contends are subject to effective competition, and with respect to each such service the following information shall be provided:))
  (5) A description of the service the petitioner proposes to classify as competitive. With respect to each service, the petitioner must provide the following information:
- (a) A description((s)) of all <u>functionally equivalent or</u> <u>substitute</u> services in the ((petitioner's definition of the)) relevant market ((for the service));
- (b) <u>The names and addresses of all providers of ((such))</u> the services known or reasonably knowable to the petitioner;
- (c) The prices, terms, and conditions under which ((such)) the services are offered by competitors to the extent known or reasonably knowable to the petitioner;
- (d) A geographical ((delineation)) description of the relevant market;
- (e) An estimate of <u>the</u> petitioner's market share ((and any past or projected change in market share));
  - (f) A description of ease of entry into the market; and
- (g) A statement of whether the petitioner has a significant captive customer base and the basis for any contention that it does not((;
- (h) A verifiable cost of service study supporting the contention that the price or rate charged for the service covers its cost. A petition which contends that all of a company's services are competitive and does not seek classification for some services if others are denied classification is exempted from this requirement;
- (i) The manner by which notice of price list changes will be provided to customers and the commission)).

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-481, filed 4/4/01, effective 5/5/01)

WAC 480-121-063 ((Waiver of)) Regulatory requirements that may be waived for ((competitive)) competitively classified telecommunications companies. (1) The ((commission may waive in writing regulatory requirements for competitive telecommunications companies if it is determined that competition will serve the same purposes as public interest regulation.

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- (2) Any telecommunications company seeking competitive classification shall include as part of its petition for classification any requests for waivers of regulatory requirements. Requests for waiver not included in a classification petition shall be granted or denied in writing. The commission reserves the right to set any such request for hearing at its discretion. Any request for waiver of regulatory requirements must include a statement as to how competition will serve the same purposes as public interest regulation.
- (3) The commission may revoke waivers of regulatory requirements in the same manner in which they were granted if such revocation would protect the public interest)) following regulatory requirements are waived for competitively classified companies:
- (a) RCW 80.04.300 (Budgets to be filed by companies— Supplementary budgets);
- (b) RCW 80.04.310 (Commission's control over expenditures);
  - (c) RCW 80.04.320 (Budget rules);
- (d) RCW 80.04.330 (Effect of unauthorized expenditure—Emergencies);
- (e) RCW 80.04.360 (Earnings in excess of reasonable rate—Consideration in fixing rates);
  - (f) RCW 80.04.460 (Investigation of accidents);
  - (g) RCW 80.04.520 (lease of utility facilities);
- (h) RCW 80.36.100 (Tariff schedules to be filed and open to public);
- (i) RCW 80.36.110 (Tariff changes—Statutory notice— Exception);
- (j) Chapter 80.08 RCW (Securities) (except RCW 80.08.140, State not obligated);
  - (k) Chapter 80.12 RCW (Transfers of property);
  - (1) Chapter 80.16 RCW (Affiliated interests);
- (m) WAC 480-80-101 Tariff requirements through WAC 480-80-143 Special contracts for gas, electric, and water companies;
  - (n) Chapter 480-140 WAC (budgets);
  - (o) Chapter 480-143 WAC (transfers of property);
- (p) Chapter 480-146 WAC (securities and affiliated interests);
  - (q) WAC 480-120-031 (Accounting);
- (r) WAC 480-120-032 (Expenditures for political or legislative activities);
- (s) WAC 480-120-043 (Notice to the public of tariff changes):
  - (t) WAC 480-120-046 (Service offered);
  - (u) WAC 480-120-131 (Reports of accidents);
  - (v) WAC 480-120-541 (Access charges);
- (w) WAC 480-120-542 (Collective consideration of Washington intrastate rate, tariff, or service proposals); and
- (x) WAC 480-120-544 (Mandatory cost changes for telecommunications companies).

This rule supersedes all waivers of regulatory requirements for competitively classified companies granted by the commission at the time of a company's competitive classification. However, subsequent to the adoption of this rule, the commission may revoke the waiver of any regulatory requirement set forth in (a) through (x) of this subsection or may waive any regulatory requirement not included in (a) through (x) of this subsection.

- (2) The commission may by order revoke waivers of regulatory requirements if it determines that revocation is necessary to protect the public interest.
- (3) In addition, the commission may waive regulatory requirements for telecommunications companies that it has classified as competitive if it determines that competition with the regulatory waiver will serve the same purposes as public interest regulation.

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-481, filed 4/4/01, effective 5/5/01)

WAC 480-121-064 ((Investigations.)) Reclassifying a competitive telecommunications company or service. (((1) Information to the commission. The commission may require competitive telecommunications companies or telecommunications companies providing competitive services to submit periodically information relating to the factors set forth in WAC 480-120-027(7).

- (2) Reclassification.)) After notice and hearing, the commission may reclassify any competitive telecommunications company or service if ((such)) it determines that reclassification would protect the public interest. ((In any such hearing the burden shall rest on)) The telecommunications company ((to)) must demonstrate that the existing competitive classification is proper and consistent with the public interest.
- (((3) Refunds. If the commission finds after notice and hearing that any class of subscribers to a noncompetitive telecommunications service has paid excessive rates because of below cost pricing of competitive telecommunications services, the commission may order refunds or credits.))

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-121-010	Filing of registration application, competitive classification petition, and price list.
WAC 480-121-023	When a supplemental application is required.
WAC 480-121-030	Additional information.
WAC 480-121-050	Cancellations.
WAC 480-121-070	Petition for competitive classification.

#### **NEW SECTION**

WAC 480-120-127 Protecting customer prepayments. As a precondition to registration, the commission may require a telecommunications company to file a performance bond sufficient to cover any prepayments it may collect from its customers, or order that such prepayments be held in escrow or trust, as stated in RCW 80.36.350.

#### **NEW SECTION**

- WAC 480-120-264 Prepaid calling services. (1) For the purposes of this section, prepaid calling services (PPCS) means any transaction in which a customer pays for service prior to use and applies only to those services where the number of available minutes decreases as the customer uses the service. Prepaid calling services do not include flat-rated basic local service that is billed in advance of use.
- (a) PPCS may require the use of an access number or authorization code.
- (b) This section excludes credit cards and cash equivalent cards. Services provided at pay telephones using these cards are regulated under the provisions of WAC 480-120-138
- (2) PPCS providers must provide customers a withoutcharge telephone number staffed by personnel capable of:
- (a) Responding to technical problems or questions related to their service twenty-four hours a day, seven days a week;
- (b) Responding to general account-related questions during regular business hours; and
- (c) Providing the commission's toll-free number and address to dissatisfied customers as required by WAC 480-120-101.
  - (3) Billing requirements for PPCS.
- (a) A PPCS provider may charge only for the actual time a circuit is open for conversation. The price list or tariff and presale document must define billing increments. The provider must not round up the length of conversation time for less than a full billing increment beyond that full increment.
- (i) If a PPCS provider uses an increment based on a time measurement, the increment must not exceed one minute.
- (ii) If a PPCS provider bills usage in "unit" measurements, it must clearly define units using both equivalent dollar amounts and time measurement. Unit billing increments cannot exceed the equivalent one minute rate.
- (b) At the customer's request, a PPCS provider may add additional time to an existing account in exchange for an additional payment at a rate not to exceed those on file with the commission. The PPCS provider must inform the customer of the new rates at the time of the recharge request.
- (4) PPCS providers must maintain the following calldata for a minimum of twenty-four months:
- (a) Dialing and signaling information that identifies the inbound access number called or the access identifier;
- (b) The number of the originating phone when the information is passed to the PPCS provider;
  - (c) The date and time the call was originated;
  - (d) The duration or termination time of the call;
  - (e) The called number; and
- (f) The personal identification number (PIN), or account number.
  - (5) Disclosure requirements Prepaid calling services.
- (a) A PPCS provider must disclose, prior to the sale, the following information:
- (i) The PPCS provider's name as registered with the commission;
- (ii) The "doing business as" name as registered with the commission, if applicable;

- (iii) The maximum charge per billing increment. A PPCS provider charging varying rates for intrastate and interstate calls must provide all applicable rates. The rates disclosed must be no more than those in its price list or tariff on file with the commission at the time of purchase;
- (iv) Charges for all services, including any applicable surcharges, fees, or taxes, and the method of application;
- (v) Expiration date, if applicable. If a card expires after a set period of time from activation, the PPCS provider must specify the expiration date on the card. If an expiration date is not disclosed on the card it will be considered unexpired indefinitely; and
- (vi) Recharge policy, if applicable. If a PPCS provider does not disclose the expiration date at the time service is recharged, the service will be considered unexpired indefinitely.
- (b) A PPCS provider must disclose, at the time of purchase, the following information:
- (i) The without-charge telephone number(s) a customer may use to resolve technical problems, service-related questions, and general account-related questions; and
- (ii) Authorization code, if required, to access the service or, if applicable, the without-charge telephone number used to establish access capability.
- (c) If the PPCS provider is not the entity that packages the services for sale to the public, it must require the company that does so, through a written agreement, to comply with the disclosure requirements of this section.
- (6) Time of use disclosure requirements. The PPCS provider must:
- (a) Announce at the beginning of each call the time remaining on the prepaid account or prepaid calling card; and
- (b) Announce the time remaining at least one minute before the prepaid account balance is depleted.
- (7) When a PPCS provider has failed to provide service at rates disclosed prior to the sale or quoted at the time an account is recharged, or the PPCS provider has failed to meet performance standards, it must provide refunds for any unused service or provide equivalent service credit when requested by a customer. Refunds or credits must equal the value remaining on the prepaid calling account. The customer may choose either the refund or equivalent service credit option.
- (8) Performance standards for prepaid calling services. Each PPCS provider must ensure that:
- (a) Customers can complete a minimum of ninety-eight percent of all call attempts to the called party's number. The PPCS provider will consider any busy signals or unanswered calls as completed calls.
- (b) Customers can complete a minimum of ninety-eight percent of all call attempts to the PPCS provider. The PPCS provider will not consider any busy signals or unanswered calls as completed calls.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-120-052

Prepaid calling services.

WAC 480-120-058

Protection of customer prepayments.

# WSR 02-11-081 PERMANENT RULES UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. U-991301, General Order No. R-498—Filed May 14, 2002, 1:28 p.m., effective June 17, 2002]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-12 issue of the Register.

# WSR 02-11-082 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed May 14, 2002, 4:01 p.m.]

Date of Adoption: May 10, 2002.

Purpose: This amendment clarifies the language and requirements. It adds a definition of "review," adds construction-related work experience and adds language that defines construction-related work experience. It repeals all rules for professional conduct and places all language regarding *Rules of Professional Practice* into one section, WAC 308-12-330.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-12-321, 308-12-322, 308-12-323, 308-12-324 and 308-12-325; and amending WAC 308-12-010, 308-12-031, 308-12-050, 308-12-081, 308-12-085, 308-12-115, 308-12-150, 308-12-210, 308-12-220, 308-12-230, 308-12-240, and 308-12-320.

Statutory Authority for Adoption: RCW 18.08.340 Board of Registration—Rules—Executive secretary—Staff support—Investigations—Subpoenas.

Adopted under notice filed as WSR 02-04-114 on February 6, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 12, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 12, Repealed 5.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 12, Repealed 5.

Effective Date of Rule: Thirty-one days after filing.

May 14, 2002 Margaret Epting Administrator AMENDATORY SECTION (Amending Order PL 560, filed 10/17/85)

WAC 308-12-010 State board of registration. (1) Meetings: The Washington state board of registration for architects, ((hereinafter)) hereafter called the board, shall hold its regular public meeting annually in September. ((Speeial)) Additional public meetings may be held at such times and places as the board may deem necessary. ((Public)) Notice of all public meetings ((shall)) will be issued as required by the Open Public Meetings Act, chapter 42.30 RCW.

Executive sessions may be held by the board in conjunction with all public meetings, and at such other times as the board shall deem necessary and for the primary purpose of preparing and grading examinations, approving applications, conducting written and oral examinations, examining reciprocity applications, and acting on applications for reinstatement of revoked licenses, and confidential matters between candidates or registrants and the board.

- (2) Rules of order. The latest edition of *Robert's Rules of Order* ((shall)) will govern the conduct of business at meetings and sessions of the board.
- (3) Officers. At the regular annual public meeting the board ((shall)) will elect a ((ehairman)) chair, a ((vice-chairman)) vice-chair and a secretary for the ensuing year.
- (4) Quorum. A quorum at any regular or ((special)) additional meeting or session ((shall)) will consist of four members of the board.
- (5) Rule changes. Prior to and during any adoption, amendments, or repeal of any rule, the board of registration ((shall)) will conduct its business in accordance with chapter 34.04 RCW the Administrative Procedure Act.
- (6) ((Annual report.)) Website. The board ((shall issue an annual report and roster)) will post current applicant and licensee names in addition to other licensing information on the website.

AMENDATORY SECTION (Amending WSR 97-03-121, filed 1/21/97, effective 2/21/97)

WAC 308-12-031 Registration examination. The board adopts the N.C.A.R.B. Architect Registration Examination (A.R.E.) as the examination required of applicants. Where RCW 18.08.360 refers to the "entire examination," it means the NCARB A.R.E. together with the oral examination.

The board adopts the grading procedures prepared by the NCARB.

- (1) The test vendor ((shall)) will publish an information guide concerning examination content, locations, schedules, and fees.
- (2) An applicant must pass each division of the NCARB examination.
- (3) The oral examination is given upon the applicant's completion of the NCARB examination.

The purpose of the oral examination is to test in those areas of knowledge and skill not covered in the NCARB examination.

The oral part of the examination ((shall)) <u>must</u> include a review of the applicant's practical experience, an understanding of the law and the responsibility to safeguard life, health, and property and to promote the public welfare.

The oral examination may be conducted by the full board or by an architect member of the board. The board may set aside the full board examination if the examining board member deems the applicant prepared for registration. If the full board examination is not set aside or if the examining board member fails the applicant, the applicant must then appear for a full board oral examination.

The board may set aside the entire oral examination based upon certification by the NCARB of successful completion of the intern development program. Such applicants shall submit the NCARB Council Record of IDP completion. However, candidates without a National Architectural Accrediting Board degree who have completed the IDP training requirements must have an oral examination. The decision to set aside the oral examination does not affect the requirement to summarize the law and rules pertaining to architecture.

An applicant must successfully complete the entire examination within a five-year period. The five-year period ((shall)) will begin with the month an applicant passes the first division of the examination. Passing scores for any division of the examination may be carried forward for a period of five years from the date the applicant passed that division of the examination. Applicants ((shall)) must retake any division of the examination which was passed more than five years previously, along with any division of the examination not yet passed. The oral examination is part of the entire examination and shall be completed within the five-year period.

AMENDATORY SECTION (Amending WSR 97-03-121, filed 1/21/97, effective 2/21/97)

WAC 308-12-050 Registration by reciprocity. Pursuant to RCW 18.08.400, the board will recommend to the director that the director grant a certificate of registration to a currently registered architect in any jurisdiction recognized by NCARB provided:

- (1) That such applicant presents evidence that the applicant has satisfactorily completed an examination equivalent to the examination required of Washington state registrants. Documentation of NCARB certification may be accepted by the board as satisfactory evidence that the applicant's qualifications and experience are equivalent to the qualifications and experience required of a person registered under RCW 18.08.350. Reciprocity candidates who cannot meet the IDP training requirement must have a minimum of two years of experience as a licensed architect.
- (2) That the applicant provides a typed summary analysis of chapter 18.08 RCW and chapter 308-12 WAC. The summary must include an analysis of each section of chapter 18.08 RCW and chapter 308-12 WAC in sufficient detail to demonstrate a thorough understanding of the law and rules as determined by the board.
- (3) That the board will require an oral interview of any candidate for registration by reciprocity, except that the oral

interview may be set aside in cases where documentary or other evidence shows sufficient information for the board to reach judgment.

(4) That the architect's current state license is not delinquent or inactive. The current state license cannot be under suspension, disciplinary restrictions, or in process of disciplinary review. Reciprocity applicants are held to the same qualifications as initial applicants for registration.

AMENDATORY SECTION (Amending Order PL 579, filed 2/5/86)

WAC 308-12-081 The seal. Every architect licensed in the state of Washington shall have a seal of design authorized by the board, bearing the registrant's name, license number and the legend "Registered architect, state of Washington." The seal with the registrant's countersignature ((shall)) must appear on ((every drawing filed)) all documents filed for permits for construction with public authorities. A facsimile of the seal appears herewith.



No architect's stamp or countersignature ((shall)) will be affixed to any drawings not prepared by the architect or his or her regularly employed subordinates, or reviewed by the architect. An architect who signs or seals drawings or specifications that he or she has reviewed is responsible to the same extent as if prepared by that architect.

AMENDATORY SECTION (Amending Order PM 676, filed 9/17/87)

WAC 308-12-085 Corporations or joint stock associations. (1) For an architect or architects to practice architecture through a corporation or joint stock association organized by any person under Title 23A RCW, the corporation or joint stock association shall file with the board a letter of application containing a statement of the experience of the corporation, if any, in furnishing architectural services during the preceding five-year period. The application ((shall)) must be signed and attested by a corporate officer.

- (2) In addition to the application for certificate of authorization, the corporation or joint stock association ((shall)) will file with the board the documentation and information specified in RCW 18.08.420.
- (3) The designated architect responsible for the practice of architecture by said corporation shall be regularly employed in that office having direct knowledge and supervisory control of such work. No individual will be the designated architecture of the practice of th

nated architect at more than one place of business or one company at any one time.

AMENDATORY SECTION (Amending WSR 98-20-061, filed 10/2/98, effective 11/2/98)

- WAC 308-12-115 Definitions. (1) Accredited architectural degree—A professional degree received from the current list of accredited schools of architecture as published by the National Architectural Accrediting Board.
- (2) Practical architectural work experience—Practical work experience performing activities involved in the practice of architecture, as defined in RCW 18.08.320, under the direct supervision of an architect. The board may approve similar practical work experience for full or partial credit and will accept intern development program experience as defined in the IDP training guidelines.
- (3) Intern development program (IDP)—A structured internship training program designed to provide a profession-wide, comprehensive program that contributes to the development of competent architects. IDP consists of training requirements that must be satisfied in order to complete the program. The National Council of Architectural Registration Boards (NCARB) maintains and validates the continuing, comprehensive record of internship training.
- (4) Supervision—The word "supervision" in RCW 18.08.320 means the periodic observation of materials and work in progress or completed work to observe the general compliance with plans, specifications, and design and planning concepts, and does not include responsibility for the superintendence of construction processes, site conditions, operations equipment, personnel, maintenance of a safe place to work, or any safety in, on, or about the site of the work.
- (5) Principal—The word "principal" as used herein shall mean an architect who is registered in this state((;)) and is the person in charge of the architectural practice, either alone or in concert with others who qualify as herein described, and:
- (a) Who is a shareholder, if the practice is through a professional service corporation; or
  - (b) A partner if the practice is through a partnership; or
- (c) The proprietor if the practice is through a proprietorship; or
- (d) The designated architect of a stock corporation((; and is the person in charge of the architectural practice, either alone or in concert with others who qualify as herein described)).
- (6) Direct supervision—The phrase, "under the direct supervision of an architect" as used in connection with architectural work experience for qualification and eligibility for the examination shall refer to any of the following conditions or situations.
- (a) The supervising architect is an employer who is knowledgeable of the performance and competence of the applicant.
- (b) The supervising architect works for the same employer as the applicant, and is either the direct superior of the applicant, or a co-worker knowledgeable and responsible for the efforts of the applicant.

- (7) Design-build—A means of providing design and construction services in which a single entity is responsible for both services.
- (8) Review—A continuous process of examination, evaluation, and direction throughout the development of the documents, which includes the ability to control the final product.
- (9) Construction-related experience—Work on a construction site in any of the construction-related trades, including, but not limited to, carpentry, laboring, electrical, plumbing, sheet metal and roofing. Work in the construction office, including, but not limited to, estimating or construction administration.

AMENDATORY SECTION (Amending Order PM 676, filed 9/17/87)

- WAC 308-12-150 Work experience defined. (1) In order to receive credit from the board for full-time practical architectural work experience, the applicant must be employed for at least thirty-five hours per week for a minimum of ten consecutive weeks.
- (2) In order to receive credit from the board for part-time practical architectural work experience, the applicant must be employed for at least twenty hours per week in periods of six or more consecutive months.
- (3) In order to receive credit from the board for full-time or part-time construction-related experience, the applicant must be employed for at least thirty-five hours per week of full-time work or twenty hours per week of part-time work, in periods of one or more months. Applicants will be granted work experience credit at half the rate, for a maximum of twelve months (e.g., an applicant with twenty-four months of construction-related experience will be granted a maximum of twelve months).
- (4) If the applicant is certified by the National Council of Architectural Registration Boards (NCARB) as having successfully completed the architectural Intern Development Program, such work experience may be used in lieu of subsections (1) and (2) of this section, to satisfy the work experience requirements of RCW 18.08.350.
- (((4))) (5) Work experience may be accrued simultaneously while educational credit is being accrued.

AMENDATORY SECTION (Amending WSR 97-03-121, filed 1/21/97, effective 2/21/97)

- WAC 308-12-210 Application of brief adjudicative proceedings. The board adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request pursuant to subsection (1) below or at the discretion of the board chair pursuant to RCW 34.05.482.
- (1) If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following issues:
- (a) A determination whether an applicant meets the qualifications for a certificate of registration or certificate of authorization to practice architecture in this state and the board proposes to deny the application;

- (b) A determination if an applicant for a certificate of registration to practice architecture in this state is eligible to begin the examination, continue the examination if already in the examination process, or to complete the examination;
- (c) A determination whether a person or organization is in compliance with the terms and conditions of a final order previously issued by the board; or,
- (d) A determination whether a certificate holder or an applicant for examination, certification or certificate renewal has been certified by a lending agency and reported for non-payment or default on a federally or state-guaranteed student loan or service conditional scholarship.
- (2) Brief adjudicative proceedings under subsection (1) ((shall)) will be limited to consideration of the following issues:
- (a) In proceedings under subsections (1)(a) and (b) above, the sole issue to be considered at the hearing is whether the documentation submitted by an applicant for issuance or renewal of a certificate of registration or certificate of authorization to practice architecture in this state, or examination meets the requirements for issuance, or renewal of a certificate or to take the examination for a certificate.
- (b) In proceedings under subsection (1)(c) above, the sole issue to be considered at the hearing is whether the documentation submitted indicates that a person or organization is in compliance with the terms and conditions of a final order previously issued by the board.
- (c) In proceedings under subsection (1)(d) above, the issues to be considered at the hearing are: (i) whether the person has been correctly certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship and (ii) is in a state of nonpayment or default at the time of the brief adjudicative proceeding.

### AMENDATORY SECTION (Amending WSR 97-03-121, filed 1/21/97, effective 2/21/97)

WAC 308-12-220 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for a license or to begin or continue the examination ((shall)) must consist of:

- (a) The application for the license or examination and all associated documents; and
- (b) All documents relied upon by the program in proposing to deny the application; and
- (c) All correspondence between the applicant for license or approval and the program regarding the application.
- (2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement ((shall)) must consist of:
  - (a) The previously issued final order or agreement; and
- (b) All reports or other documents submitted by the license holder, or at the direction of the license holder, in full or partial fulfillment of the terms of the final order; and
- (c) All correspondence between the license holder and the program regarding compliance with the final order or agreement.

- (d) All documents relied upon by the program that the license holder has failed to comply with the previously issued final order or agreement.
- (3) The preliminary record for determination of nonpayment or default by the license holder on a federally or stateguaranteed student loan or service-conditional scholarship shall consist of:
- (a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed student loan or service-conditional scholarship; or
- (b) A written release, if any, issued by the lending agency stating that the person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

AMENDATORY SECTION (Amending WSR 97-03-121, filed 1/21/97, effective 2/21/97)

WAC 308-12-230 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer appointed by the current board chair in accordance with RCW 34.05.485. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but ((shall)) must not have personally participated in the decision to issue the initiating document.

- (2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.
- (3) The presiding officer for brief adjudicative proceedings may, ((in)) at his or her discretion, entertain oral argument from the parties or their representatives.
  - (4) No witnesses may appear to testify.
- (5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.
- (6) The presiding officer for brief adjudicative proceedings ((shall)) will not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings ((shall)) will enter an initial written order.

AMENDATORY SECTION (Amending WSR 97-03-121, filed 1/21/97, effective 2/21/97)

WAC 308-12-240 Reinstatement of suspended certificates, eligibility for registration, or denied renewals. Where a person's certificate of registration has been suspended, an applicant has been denied certificate renewal, or an applicant has been denied the ability to take the examination for certificate of registration due to nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship, ((his or her)) the certificate renewal or examination application will be reinstated when the person provides the board a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved

by the lending agency, provided, the person shall pay any applicable reinstatement or renewal fee.

AMENDATORY SECTION (Amending WSR 99-08-062, filed 4/2/99, effective 5/3/99)

WAC 308-12-320 Renewal of licenses. (1) The license renewal date for architects ((shall)) will be the architect's birth date. Licensees who fail to pay the license renewal fee within thirty days of license expiration date will be subject to the late payment penalty fee as set forth in RCW 18.08.430 and WAC 308-12-326. Architects whose renewal fees are delinquent will be listed with the state building officials.

- (2) The renewal period for architects is two years.
- (3) Assessment of delinquent fees will be based on the number of years delinquent multiplied by one-half of the two-year renewal fee or the fee for one year.
- (4) A registrant who fails to pay a renewal fee for a period of five years or more may be reinstated upon payment of all delinquent renewal fees and a penalty fee. Assessment of delinquent fees will be based on the number of years delinquent multiplied by one-half of the two-year renewal fee or the fee for one year. In addition to the payment of delinquent fees and a penalty fee the registrant shall submit the following:
- (a) A summary of the current law and rules governing architects.
- (b) A professional resume of architectural activities during the delinquent period, in sufficient detail to demonstrate to the board maintenance of minimum skills.
- (c) A detailed explanation of the circumstances surrounding the reason the license was allowed to expire.

The board may require additional evidence as needed to verify minimum competency and qualifications. The registrant may be required to appear before the board or a representative member thereof where questions of competency remain.

- (5) Registrants who withdraw from the practice of architecture, and exceed five years in an inactive status, shall request reinstatement in writing to the board and shall submit the following:
- (a) A summary of the current law and rules governing architects.
- (b) A professional resume of architectural activities during the delinquent period, in sufficient detail to demonstrate to the board maintenance of minimum skills.
- (c) A detailed explanation of the circumstances surrounding the reason the license was in an inactive status for more than five years.

The board may require additional evidence as needed to verify minimum competency and qualifications. The registrant may be required to appear before the board or a representative member thereof where questions of competency remain.

#### RULES OF PROFESSIONAL PRACTICE

#### **NEW SECTION**

## WAC 308-12-330 Rules of professional practice. (1) Competence.

- (a) When practicing architecture, an architect must act with reasonable care and competence, and must apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality.
- (b) When designing a project, an architect must take into account all applicable state and municipal building laws and regulations. An architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations. An architect must not knowingly design a project in violation of such laws and regulations.
- (c) An architect must perform professional services only when the architect, together with those whom the architect may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved.
- (d) No person will be permitted to practice architecture if, in the board's judgment, such person's professional competence is substantially impaired by physical or mental disabilities.
  - (2) Conflict of interest.
- (a) An architect must not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed and agreed to in writing by all interested parties.
- (b) The architect must fully disclose in writing to the client or employer the nature of any business association or direct or indirect financial interest which is substantial enough to influence the architect's judgment in connection with the performance of professional services. If the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.
- (c) An architect must not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.
- (d) When acting as the interpreter of building contract documents and the judge of contract performance, an architect must render decisions impartially, favoring neither party to the contract.
  - (3) Full disclosure.
- (a) An architect must disclose any compensation received for making public statements on architectural questions.
- (b) An architect must accurately represent qualifications and scope of responsibility to prospective or existing clients or employers for work for which the architect is claiming credit.
- (c) In the course of work on a project, if an architect becomes aware of a decision made by the employer or client, against the architect's advice, which violates applicable state or municipal building laws and regulations and which will, in the architect's judgment, materially and adversely affect the safety to the public of the finished project, the architect must:

- (i) Report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations,
  - (ii) Refuse to consent to the decision, and
- (iii) Terminate services on the project when the architect reasonably believes that decisions will be made against the architect's objection.

In the case of a termination in accordance with (c)(iii) of this subsection, the architect shall have no liability to the client or employer because of such termination.

- (iv) An architect must not deliberately make a materially false statement or deliberately fail to disclose a material fact in connection with the application for registration or renewal.
- (v) An architect must not assist a person in applying for registration when the architect knows the applicant is unqualified in education, training, experience, or character.
- (vi) An architect possessing knowledge of a violation of these rules by another architect must report such knowledge to the board.

#### (4) Compliance with laws.

- (a) An architect must not, in the conduct of architectural practice, knowingly violate any state or federal criminal law.
- (b) An architect must not offer or make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.
- (c) An architect must comply with the registration laws and regulations governing his or her professional practice.

#### (5) Professional conduct.

- (a) An office maintained for the purpose of providing architectural services must have an architect resident regularly employed in that office with direct knowledge and supervisory control of such work.
- (b) An architect must not offer or provide any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.
- (c) An architect must not engage in conduct involving fraud or wanton disregard of the rights of others.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-12-321	Competence.
WAC 308-12-322	Conflict of interest.
WAC 308-12-323	Full disclosure.
WAC 308-12-324	Compliance with laws.
WAC 308-12-325	Professional conduct.

# WSR 02-11-084 PERMANENT RULES GAMBLING COMMISSION

[Order 413-Filed May 16, 2002, 3:24 p.m., effective July 1, 2002]

Date of Adoption: April 12 [May 10], 2002.

Purpose: There has been a general prohibition against licensees giving credit, loans or gifts to persons participating in gambling activities. Over the years, the commission has granted specific exceptions to this general prohibition. Last year, gambling promotions were increased charitable and nonprofit organizations. During the same time, the commission was also discussing card room promotions and charities asked for approval to give pull-tabs away as prizes. Staff felt it was an appropriate time to address all promotions, rather than continuing to make exceptions to the general prohibition. This rules package sets forth the parameters licensees must follow when offering promotions in conjunction with gambling activities. Staff will no longer review individual promotions. Gambling promotions are limited to persons playing in a licensed gambling activity and each promotional item cannot exceed \$500 in actual cost. Promotions cannot be combined with promotional contests of chance. Gifts will still be allowed, however the actual cost of each gift item is limited to no more than \$500. Furthermore, charitable and nonprofit organizations must keep a record of gift recipients when the actual cost of a gift is over \$100.

Citation of Existing Rules Affected by this Order: Repealing WAC 230-02-145, 230-20-111, 230-20-125, 230-20-230 and 230-40-897; and amending WAC 230-12-050 and 230-40-800.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 02-07-081 on March 19, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 2, Repealed 5.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 2, Repealed 5; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2002.

May 16, 2002 Susan Arland Rules Coordinator

#### **NEW SECTION**

WAC 230-12-045 Promotions for gambling activities—Conditions—Restrictions. Licensees may conduct

promotions connected with authorized gambling activities under the following conditions and restrictions:

#### Definitions.

- (1) Gambling promotions are directly connected to a gambling activity. A promotion may offer cash, merchandise, and/or discounted coupons to encourage a player to begin or continue play in a gambling activity.
- (2) Promotional contests of chance are defined in RCW 9.46.0356. These contests are designed for a business to advertise or promote its goods, wares, merchandise, or services. These contests must be open to all customers and there must always be a free method of entry.

#### Conditions.

- (3) The following conditions apply to promotions:
- (a) All players must have an equal opportunity to participate;
- (b) A promotion may provide an initial opportunity to engage in a gambling activity for free or at a discount; and
- (c) All rules or restrictions governing the promotions shall be conspicuously displayed in the gaming area and referred to on any promotional coupon or advertisement.

#### Restrictions.

- (4) The following restrictions apply to promotions:
- (a) Any promotion offered to an individual player shall not exceed five hundred dollars in actual cost, per item;
- (b) Promotions shall not consist of schemes in which the prize or end result is an additional opportunity to engage in a gambling activity regulated by the Washington state gambling commission; and
- (c) Gambling activities and related promotions shall not be combined in any way with promotional contests of chance, as defined in RCW 9.46.0356.

AMENDATORY SECTION (Amending Order 383, filed 4/14/00, effective 5/15/00)

WAC 230-12-050 Extension of credit, loans, or gifts prohibited—Limited exception. No licensee, member or employee thereof shall extend credit, make a loan, or grant a gift to any person playing in an authorized gambling activity, or which enables a person to play in an authorized gambling activity.

#### Gifts prohibited - Exceptions.

- (1) Gifts are items licensees give away to its customers and are not connected to gambling activities regulated by the commission. Licensees shall not offer gifts in conjunction with gambling activities, with the following exceptions:
- (a) Promotions are allowed as authorized by WAC 230-12-045;
- (b) Free or discounted food, drink or merchandise may be provided under the following conditions:
- (i) The actual cost of any individual item may not exceed five hundred dollars;

- (ii) The merchandise shall not be traded back to the licensee for cash or be used to further participate in an authorized gambling activity;
- (c) For each individual gift with an actual cost over one hundred dollars, charitable and nonprofit organizations shall prepare and maintain a written record with the following information:
  - (i) How the recipients of the gifts were selected;
  - (ii) The number of gifts awarded; and
  - (iii) The total cost of each gift given.

#### Credit and loans prohibited - Exceptions.

(2) The consideration required to participate in the gambling activity shall be collected in full, by cash, check, or electronic point-of-sale bank transfer, prior to participation((: Provided, That this prohibition shall not apply to the following situations)), with the following exceptions:

#### Punch boards/pull-tabs.

(((1))) (a) The consideration paid for the opportunity to play a punch board or pull-tab series may be collected immediately after the play is completed only when such consideration is ten dollars or less;

### Charitable/nonprofit organization's billing system for members.

(((2))) (b) When a bona fide charitable or bona fide non-profit organization conducting any of the activities authorized by chapter 9.46 RCW or commission rules has a regular billing system for all of the activities of its members with such organization, such billing system may be utilized in connection with the playing of any of the activities authorized hereunder if:

(((a))) (i) The playing of such activity is limited to regular members of such organization who have become regular members prior to the commencement of such activity and whose qualifications for membership were not dependent upon, or in any way related to, the playing of such activity; and

(((b))) (ii) The ((eommission)) director has given ((its)) prior written consent to the use of such billing system in connection with the conduct of activities authorized under these rules.

#### Raffle tickets purchased with credit cards.

(((3))) (c) Charitable or nonprofit organizations utilizing credit cards, issued by a state and/or federally regulated financial institution, for payment to participate in raffles((; and

#### Promotional gifts.

- (4) Promotional gifts detailed below:
- (a) The providing of free or discounted food, drink, or merchandise to card players at a public card room;
- (b) Promotional activities conducted as a part of bingo games and authorized by WAC 230 20-125;
  - (e) Performances as authorized by WAC 230-20-111;
- (d) Free play for eard playing as authorized by WAC 230-40-050(7);

- (e) "Free roll" or customer appreciation tournaments as authorized by WAC 230 40 055(2); and
- (f) Promotional game cards meeting the standards of WAC 230-46-070(1).

#### Food and drink to bingo players.

(5) Free or discounted food or nonalcoholic-drink to bingo players)).

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-02-145

Promotional marketing gifts.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 230-20-111

Promotional activities—Performances as gifts—Advance approval required.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-20-125

Discounts and promotional gifts—Authorized—Limits.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-20-230

Free games for winners—Restrictions.

AMENDATORY SECTION (Amending Order 383, filed 4/14/00, effective 5/15/00)

WAC 230-40-800 Operating rules for house-banked card games. Licensees that operate house-banked card games shall establish rules and procedures governing each specific house-banked card game played at their premises. The following restrictions and procedures apply:

- (1) House-banked card games shall not be operated prior to approval as set forth in WAC 230-40-010;
- (2) All house-banked card games shall be dealt from a dealing shoe or an approved shuffling device;
- (3) The licensee shall submit all rules governing the game to commission staff for approval. All requests shall be in writing and include at least the following:
- (a) Rules of play, including those specified by the manufacturer or supplier;
- (b) Any administrative or accounting controls applicable to specific games;

- (c) All specifications provided by the equipment manufacturer or supplier applicable to gaming equipment utilized in the game;
  - (d) Physical characteristics of the following:
  - (i) Cards (including procedures for receipt and storage);
  - (ii) Gaming chips used to play the game;
  - (iii) All gaming tables and layouts;
  - (iv) Dealing shoes;
  - (v) Card shuffling devices;
  - (vi) Card peeking devices;
  - (vii) Bill changer devices; and
- (viii) Such other equipment as may be required for use in otherwise authorized games;
- (4) Rules for each authorized game, shall include at least the following:
  - (a) Procedures of play;
  - (b) Minimum and maximum permissible wagers;
- (c) Shuffling, cutting, and dealing techniques, as applicable;
  - (d) Dealer take and pay procedures;
- (e) Payout odds on each form of wager, including any factors affecting payments to the player, such as maximum player or aggregate prize restrictions; and
- (f) Procedures to be followed on occurrence of irregularities, including examples of irregularities applicable to each game;
- (5) A summary of playing procedures and rules of play for each game shall be visibly displayed in the gaming area. If the procedures or restrictions are game specific, they shall be displayed at each gaming table at which the game is played((;
- (6) Full details on all promotions, schemes or other means used to promote eard games operated in card rooms which offer house banked card games must be submitted to commission staff and be approved prior to implementing)).

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-40-897

Card game promotions— Procedures—Restrictions.

# WSR 02-11-090 PERMANENT RULES SHORELINE COMMUNITY COLLEGE

[Filed May 17, 2002, 9:05 a.m.]

Date of Adoption: April 24, 2002.

Purpose: Revise two rules, WAC 132G-104-010 and 132G-104-020, and to repeal WAC 132G-104-030, which was reenacted in accordance with RCW 28B.10.528 by resolution of the college's board of trustees on April 24, 2002.

Citation of Existing Rules Affected by this Order: Repealing WAC 132G-104-030; and amending WAC 132G-104-010 and 132G-104-020.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Adopted under notice filed as WSR 02-06-127 on March 6, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 9, 2002 Holly L. Moore President

AMENDATORY SECTION (Amending Order 12-10:79, filed 6/6/79)

WAC 132G-104-010 Time and place of board meetings. The board of trustees shall hold one regular meeting on the ((third-Friday)) fourth Wednesday of each month at ((8:00 a.m.)) 4:00 p.m. and such special meetings as may be requested by the ((ehairman)) chair of the board or by a majority of the members of the board and announced in accordance with law.

All regular and special meetings of the board of trustees shall be held at 16101 Greenwood Avenue North, ((Seattle)) Shoreline, unless scheduled elsewhere, and shall be open to the general public, except for lawful executive sessions.

No official business shall be conducted by the board of trustees except during a regular or special meeting.

<u>AMENDATORY SECTION</u> (Amending Order 9-26:76, filed 6/30/76)

WAC 132G-104-020 Request for items to be placed on board agenda. Anyone, other than a board member or a representative of the president's office wishing an item placed on the agenda of a board meeting, must have a written request in the office of the board secretary no later than twelve o'clock noon five business days before the next scheduled meeting of the board. The secretary will relate the request to the college president and the ((chairman)) chair of the board as soon as feasible. The ((chairman)) chair will determine whether the item is to be placed on the agenda. The ((chairman)) chair or his/her designee will notify the individual initiating the request as to whether or not the item will be placed on the agenda.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132G-104-030

Delegation to college presi-

dent.

## WSR 02-11-095 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed May 20, 2002, 9:12 a.m.]

Date of Adoption: May 15, 2002.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-205, 308-96A-206, and 308-96A-220.

Statutory Authority for Adoption: RCW 46.01.110, 46.16.070.

Other Authority: RCW 46.16.135.

Adopted under notice filed as WSR 02-07-036 on March 13, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 17, 2002 Fred Stephens Director

AMENDATORY SECTION (Amending WSR 99-01-133, filed 12/21/98, effective 1/21/99)

WAC 308-96A-205 Gross weight—Increasing declared gross weight. (1) ((May I increase the declared gross weight on my vehicle if the current declared gross weight is insufficient?

Yes, you may, by applying at any Washington vehicle licensing office.)) If my gross weight is insufficient, am I required to increase it? Yes, you are required to maintain sufficient gross weight to cover the weight of the vehicle and its load up to the legal weight limit of your vehicle. Any amount above the legal limit of the gross vehicle weight rat-

ing requires an overweight permit from the department of transportation.

- (2) How do I increase my gross weight? You may purchase additional gross weight by applying at any Washington vehicle license office and surrendering the current gross weight license.
- (3) What would the gross weight expiration date be when I increase the declared gross weight of my vehicle?
- (((a) If the current declared gross weight is twelve thousand pounds or less, the increased gross weight expiration date will be the same as your vehicle registration expiration date; or
- (b) If the current declared gross weight is fourteen thousand pounds or more, the gross weight expiration date will remain the same as is currently in effect.)) The new gross weight expiration date remains the same as the current gross weight license. You may choose to purchase additional months of gross weight not to exceed the vehicle registration expiration date.
- (((3))) (4) What ((will be)) is the start date of the new gross weight license? The start date of the new gross weight license remains the same as the current gross weight license.
- ((The new gross weight license start date is the first day of the current registration month, as described in WAC 308-96A-201-(2)(b), or any subsequent registration month of the current gross weight license period.
- (4))) (5) Will I receive credit for gross weight fees that I have already paid? Yes. You will receive dollar value credit for the number of months from the start date of the new gross weight license to the expiration of the current gross weight license ((and at the rate of the declared gross weight of the current gross weight license. However,)). Credit is given for the gross weight that has already been purchased:
- (a) You must surrender the current gross weight license in order to receive credit.
- (b) If the gross weight license is lost, stolen or destroyed, you must sign an affidavit of loss and a statement that the gross weight license has not been transferred to another vehicle.
- (c) You will not receive credit for the monthly gross weight permit fees as defined in RCW 46.16.135.
- (((5))) (6) How many months gross weight ((fees will I be charged)) must I purchase when I increase the declared gross weight on my vehicle? You must purchase at least as many months as are remaining on the current gross weight license.

((You will be charged for the number of months from the start date of the new gross weight license to the expiration of the new gross weight license at the rate of new declared gross weight amount and use class.)) Credit will be given as provided in subsection (((4))) (5) of this section. You will also be charged for the permit fees as defined in RCW 46.16.135, when applicable, in addition to all other fees required to license the vehicle.

AMENDATORY SECTION (Amending WSR 99-01-133, filed 12/21/98, effective 1/21/99)

WAC 308-96A-206 Gross weight—Decreasing declared gross weight. (1) May I decrease the declared gross weight on my vehicle?

Yes((, you may, by applying at any Washington vehicle licensing office)). If you decrease the declared gross weight, you must surrender the current gross weight license.

- (2) When ((is the best time to)) may I decrease the declared gross weight on my vehicle? Any time during the registration year. However, decreasing the declared gross weight may result in a forfeiture of gross weight fees already paid. Unless you have been advised by law enforcement to decrease your declared gross weight, you may wait to decrease it until renewing your gross weight license.
- ((Unless you have been advised by law enforcement to decrease the declared gross weight on your vehicle, the best time is at the time you are purchasing gross weight. Decreasing the declared gross weight results in a forfeiture of gross weight fees paid, unless you purchase additional months within the same registration year.))
- (3) What would the gross weight expiration date be when I decrease the declared gross weight of my vehicle? The expiration date of the gross weight license would remain the same as the current gross weight license.
- (((a) If the declared gross-weight is twelve thousand pounds or less, the gross weight expiration date will be the same as your vehicle registration expiration date; or
- (b) If the declared gross weight is fourteen thousand pounds or more, the gross weight expiration date will remain the same as is currently in effect. You may choose to purchase additional months of gross weight not to exceed the vehicle registration expiration date.))
- (4) What will be the start date of the new gross weight license? The start date of the gross weight license would remain the same as the current gross weight license.
- ((The start date will depend upon the date of application. If the application is made on the first day of a gross weight license month, the owner has the option of making the start date the day of application, or the first day of any gross weight license month already purchased. If the application is made other than on the first day of the gross weight license month, the owner has the option of making the effective date the first day of any gross weight license month already purchased. The start date may not be prior to the date of application.))
- have already paid? You will receive dollar value credit for the number of months remaining and at the rate of the declared gross weight previously purchased for the period between the effective date of the change and the expiration date of the previously issued gross weight license. At the time of application, any excess credit accrued as a result of such change may be applied toward the payment of gross weight license fees for the gross weight license months between the previous gross weight license expiration date and the registration expiration date((-)):

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- (a) Credit may not be carried over to the next registration year and any credit still remaining after decreasing gross weight to the registration expiration date shall be forfeited((-));
- (b) You must surrender the current gross weight license in order to receive credit((-));
- (c) If the gross weight license is lost, stolen or destroyed, you must sign an affidavit of loss and a statement that the gross weight license has not been transferred to another vehicle((-));
- (d) You will not receive credit for the monthly gross weight permit fees as defined in RCW 46.16.135.
- (6) May the credit of gross weight be applied to any other fee? No it may only be applied to gross weight.
- (7) How many months gross weight ((fees-will I be eharged)) must I purchase when I decrease the declared gross weight of my vehicle? You will ((be charged for the number of months from the start date of the new gross weight license to the expiration of the new gross weight license at the rate of new declared gross weight)) need to purchase the number of months remaining on the current gross weight license. Credit will be given as provided in subsection (5) of this section. You will also be charged for the permit fees as defined in RCW 46.16.135, when applicable, in addition to all other fees required to license the vehicle.

AMENDATORY SECTION (Amending WSR 99-01-133, filed 12/21/98, effective 1/21/99)

WAC 308-96A-220 Gross weight—Transfer of gross weight license to a replacement vehicle. (1) May I transfer a gross weight license to a replacement vehicle? Yes, the gross weight license on a truck, tractor, or truck tractor may be transferred to a replacement vehicle ((if the amount of credit is fifteen dollars or more)).

- (2) What qualifies as a replacement vehicle? A replacement vehicle ((must be)) is a truck, tractor, or truck tractor that is:
- (a) A presently unlicensed vehicle belonging to the same owner; or
- (b) A vehicle purchased for replacement ((which has either not been previously licensed for the current registration year)) that is presently unlicensed or has had its gross weight license retained by its former owner.
- (3) What is an unlicensed vehicle? For the purposes of this section, a vehicle is considered unlicensed if the current gross weight license expires prior to the registration, or if the current gross weight license is not adequate for the load being carried.
- (4) When may I transfer gross weight license to a replacement vehicle? ((A person)) You may transfer a gross weight license from one vehicle to a replacement vehicle when the previously licensed vehicle has been:
- (a) Sold and the gross weight credit amount of fifteen dollars or more is retained;
  - (b) Destroyed;
- (c) Reclassified so a gross weight license is no longer required;
  - (d) Registered in another jurisdiction;

- (e) Involuntarily removed from the person's ownership by repossession, sheriff's sale, court order, chattel lien, landlord lien, abandoned vehicle sale; ((OF))
  - (f) Stolen; or
  - (g) Removed from service by the owner.

Gross weight license may also be transferred to a replacement vehicle at the request of the owner.

- (((4))) (5) What ((will be the start date of the)) are the restrictions to transferring gross weight license ((when transferred to the replacement vehicle))?
- (((a) If the replacement vehicle is currently registered, the gross weight license start date will be the first day of the registration month in which the application for certificate of ownership is made.
- (b) If the replacement vehicle is not currently registered, the gross weight license start date will be the day of application.
- (e) If the replacement vehicle has been titled to the applicant for more than twelve months and the vehicle registration has been expired for less than one registration year, the gross weight license start date will be the same as described in (a) of this subsection.
- (5))) The restrictions to transferring gross weight license are:
- (a) The expiration date of the transferred gross weight license may not:
- (i) Extend beyond the registration expiration date of the replacement vehicle;
- (ii) Be used to extend the registration expiration date of the replacement vehicle.
- (b) The gross weight license being transferred may not exceed the replacement vehicle's weight limitations as defined in chapter 46.44 RCW;
- (c) The gross weight license being transferred must be 14,000 pounds or more;
- (d) The amount of gross weight credit being transferred must be fifteen dollars or more;
- (e) A transfer of gross weight license for the purposes of increasing the declared gross weight of the replacement vehicle must comply with the requirements of WAC 308-96A-205;
- (f) You must surrender the current gross weight license in order to transfer gross weight license to a replacement vehicle.
- (6) What would the new gross weight expiration date be?
- (a) ((If the current declared gross weight is twelve thousand pounds or less, the new gross weight expiration date will be the same as the vehicle registration expiration date; or
- (b) If the current declared gross weight is fourteen thousand pounds or more, the gross weight expiration date will remain the same as is currently in effect. You may choose to purchase additional months of gross weight not to exceed the replacement vehicle registration expiration date.
- (6) How many months gross weight fees will I be charged when I apply for transfer of ownership?

You will be charged for the number of months and at the rate of the declared gross weight being purchased for the period between the start date and the expiration date of the

new gross weight license.)) The expiration date of the transferred gross weight license will be the same day of the month as the registration expiration date of the replacement vehicle. For example: If the registration expiration date of the replacement vehicle is July 15, the transferred gross weight license will expire on the fifteenth day of the month, depending on how many months gross weight license was transferred.

You may choose to purchase additional months of gross weight not to exceed the replacement vehicle registration expiration date.

- (b) If the registration of a replacement vehicle as described in subsection (2)(b) of this section has expired, new registration and gross weight expiration dates will be assigned.
- (7) Will I receive credit for gross weight fees that have already been paid? You will receive credit for the current and unused portions of the gross weight license already purchased. Any excess credit will be forfeited and will not be refunded.

((Yes, if the credit amount is fifteen dollars or more, you will receive dollar value credit for the number of full months from the date of application for the new gross weight license to the expiration of the current gross weight license and at the rate of the declared gross weight of the current gross weight license. However, you must surrender the current gross weight license in order to receive credit. If the gross weight license is lost, stolen or destroyed, you must provide an affidavit of loss and a statement from the applicant that the gross weight license has not been, or will not be, transferred with the vehicle to the new owner or to another vehicle. You will not receive credit for the monthly gross weight permit fees as defined in RCW 46.16.135. At the time of application, any excess-credit-accrued, as a result of such change, may be applied toward the payment of gross-weight license fees for the gross weight license months between the previous gross weight license expiration date and the registration expiration date. Any credit still remaining after applying credit for gross weight to the replacement vehicle shall be forfeited. You must surrender the current gross weight license in order to receive credit. If the gross weight license is lost, stolen or destroyed, you must sign an affidavit of loss and a statement that the gross weight license has not been transferred to another vehicle. You will not receive credit for the monthly gross weight permit fees as defined in RCW-46.16.135.))

# WSR 02-11-096 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed May 20, 2002, 9:14 a.m.]

Date of Adoption: May 24, 2002.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-101, 308-96A-110, and 308-96A-136.

Statutory Authority for Adoption: RCW 46.01.110, 46.16.276, 46.16.600.

Adopted under notice filed as WSR 02-08-036 on March 29, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 17, 2002 Fred Stephens Director

AMENDATORY SECTION (Amending WSR 99-06-029, filed 2/24/99, effective 3/27/99)

WAC 308-96A-101 Scale weight. (1) What is scale weight?

Scale weight is the weight of a vehicle without a load.

(2) When does the department require the scale weight of my vehicle?

The department requires the scale weight of your vehicle when:

- (a) The use class requires gross weight under RCW 46.16.070 and 46.16.090;
  - (b) The vehicle is a trailer;
  - (c) The use class is F/H (for hire) or STA (stage);
- (d) The vehicle is powered by propane, natural gas or butane;
- (e) There is a discrepancy between the scale weight on department records or supporting documents and the actual weight of the vehicle; or
- (f) The vehicle has been structurally modified changing the empty weight.
- (3) What ((sources)) does the department accept for scale weight verification?

The department will accept:

- (a) The shipping weight as shown on a manufacturer's statement/certificate of origin or factory invoice;
  - (b) A weight slip from a certified scale;
- (c) Information provided by any <u>nationally recognized</u> <u>electronic source</u>, guidebook or other publication of recognized standing in the vehicle industry;
- (d) Unladen or scale weight as shown on supporting documentation issued by another jurisdiction; or
- (e) ((In extenuating circumstances and as)) Other sources approved by the department((, either a weight slip

from a noncertified scale or an agreement reached between the applicant and the department)).

AMENDATORY SECTION (Amending WSR 99-06-029, filed 2/24/99, effective 3/27/99)

## WAC 308-96A-110 Private <u>carrier</u> bus. When may a vehicle be licensed as a private <u>carrier</u> bus?

A vehicle may be licensed as a private <u>carrier</u> bus <u>as</u> <u>described in RCW 46.04.416</u> without a ((<del>load</del>)) license <u>based</u> <u>on gross weight</u> if it carries passengers without compensation and is:

- (1) Used by a hotel, resort or lodge to transport guests;
- (2) Used by a parking service to transport parking customers to and from a transportation terminal or other destination;
- (3) Used by its owner to transport an athletic team, an educational group, members of a religious organization, a show troupe or similar organization;
- (4) Used by its owner to transport family, guests or employees;
- (5) Used( $(\frac{1}{2})$ ) as a school bus by a private school not accredited by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 99-06-029, filed 2/24/99, effective 3/27/99)

## WAC 308-96A-136 Mopeds—License plates. (1) Will the department issue a license plate ((to)) for my moped?

The department will issue a motorcycle series license plate for your moped when you make proper application.

The number on the license plate serves as the moped's registration number as required in RCW 46.16.630.

(2) How do I display ((my)) the license plate on my moped?

The license plate ((shall)) <u>must</u> be displayed on the rear of your moped as provided in RCW 46.16.240.

(3) If my moped does not meet the standard criteria for a moped, can I get it licensed as such? A Washington state patrol inspection may be required before a license can be issued. The Washington state patrol has the discretion to inspect and define similar vehicles as mopeds. If the vehicle is similar to a moped, it must be identified as a moped by the Washington state patrol inspection before a license can be issued.

## WSR 02-11-098 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed May 20, 2002, 10:39 a.m., effective October 1, 2002]

Date of Adoption: May 21 [20], 2002.

Purpose: The reason for the adoption of this rule is to bring the private investigator licensing program in compliance with RCW 43.24.086, which requires each professional licensing program to collect revenue equal to the cost of the program.

Citation of Existing Rules Affected by this Order: Amending WAC 308-17-150 Fees.

Statutory Authority for Adoption: RCW 43.24.086.

Other Authority: Chapter 18.165 RCW.

Adopted under notice filed as WSR 02-03-130 on January 23, 2002.

Changes Other than Editing from Proposed to Adopted Version: New original application fees effective October 1, 2002. Renewals: New fees effective for all licenses expiring on or after October 1, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: October 1, 2002.

May 14, 2002 Alan E. Rathbun Assistant Director

AMENDATORY SECTION (Amending WSR 97-17-051, filed 8/15/97, effective 9/15/97)

WAC 308-17-150 Private investigative agency, private investigator, and armed private investigator fees. The following fees for a one-year period shall be charged by professional licensing services of the department of licensing:

Fee
\$(( <del>350.00</del> )) <u>550.00</u>
25.00
(( <del>275.00</del> ))
<u>450.00</u>
(( <del>350.00</del> ))
<u>600.00</u>
25.00
(( <del>75.00</del> ))
<u>150.00</u>
25.00
25.00
15.00

Title of Fee	Fee
License renewal	(( <del>75.00</del> ))
	<u>150.00</u>
Late renewal with penalty	(( <del>100.00</del> ))
•	<u>200.00</u>
Certification	25.00
Armed private investigator:	
Original license	(( <del>50.00</del> ))
	<u>100.00</u>
Transfer fee	25.00
Certified trainer examination/	
reexamination	25.00
Certified trainer renewal	15.00
License renewal	(( <del>75.00</del> ))
	<u>150.00</u>
Late renewal with penalty	(( <del>100:00</del> ))
	<u>250.00</u>
Certification	25.00
Change of unarmed qualified	<u>150.00</u>
<u>agent</u>	
Change of armed qualified agent	<u>100.00</u>

# WSR 02-11-100 PERMANENT RULES DEPARTMENT OF AGRICULTURE

[Filed May 20, 2002, 11:15 a.m.]

Date of Adoption: May 17, 2002.

Purpose: The purpose of existing chapter 16-462 WAC is to provide the grape industries of Washington with high quality planting stock that is free of harmful pests and true to type. The purpose of this amendment is to update the grape-vine certification program by increasing the varieties available as Washington certified stock, by certifying the stock apparently free from two additional virus diseases, and by clarifying existing text.

Citation of Existing Rules Affected by this Order: Amending WAC 16-462-015, 16-462-020, 16-462-021, 16-462-022, 16-462-025, 16-462-030, and 16-462-050.

Statutory Authority for Adoption: Chapter 15.14 RCW. Adopted under notice filed as WSR 02-08-085 on April

Adopted under notice filed as WSR 02-08-085 on April 3, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 17, 2002 William E. Brookreson Acting Director

AMENDATORY SECTION (Amending WSR 99-12-025, filed 5/25/99, effective 6/25/99)

WAC 16-462-015 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

- (1) "Aseptic shoot tip propagation" means aseptically removing a vegetative shoot tip from growth arising from a dormant cutting from a foundation plant or from green growth (i.e., softwood) from a foundation plant during the growing season and aseptically transferring this shoot tip to a suitable vessel containing an appropriate culture medium.
- (2) "Certified grape planting stock" means vines, rooted cuttings, cuttings or grafted plants taken or propagated directly from foundation vines, registered vines or certified ((plants grown in a green house for one year and certified)) in compliance with the provisions of this chapter.
- (3) "Department" means the department of agriculture of the state of Washington.
- (4) "Director" means the director of the department of agriculture or the director's designee.
- (5) "Foundation block" means a planting of grapevines established, operated and maintained by Washington State University, or other equivalent sources approved in writing by the director, that are indexed and found free from viruses designated in this chapter and that are not off-type.
- (6) "Index" means determining whether a virus infection is present by means of inoculation from the plant to be tested to an indicator plant or by any other testing method approved by the department.
- (7) "Indicator plant" means any herbaceous or woody plant used to index or determine virus infection.
- (8) "Off-type" means appearing under visual examination to be different from the variety listed on the application for registration ((0+)) and certification, or exhibiting symptoms of a genetic or nontransmissible disorder.
- (9) "Registered block" means a planting of registered grapevines maintained by a nursery and used as a source of propagation material for certified grapevines.
- (10) "Registered vine" means any vine propagated from ((the)) a foundation block approved by the director, identified ((by the number assigned to the original)) to a single vine ((in the foundation block from which it was propagated)) source, and registered with the Washington state department of agriculture, in compliance with provisions of this chapter.
- (11) "Virus-like" means a graft-transmissible disorder with symptoms resembling a characterized virus disease,

including, but not limited to, disorders caused by viroids and phytoplasmas.

AMENDATORY SECTION (Amending WSR 99-12-025, filed 5/25/99, effective 6/25/99)

WAC 16-462-020 Requirements for participation in the grape planting stock program. (1) The applicant shall be responsible, subject to the approval of the department, for the selection of the location and the proper maintenance of registered blocks and planting stock.

- (2) The applicant must maintain ((the identity)) records identifying the source of registered vines((: The applicant must maintain records identifying the source of)) and certified planting stock. The applicant must make these records available to the department upon request.
  - (3) The applicant shall take suitable precautions in cultivation, irrigation, movement and use of equipment, and in other farming practices, to guard against spread of soil-borne pests to planting stock entered in this program. The applicant shall keep all registered blocks and certified planting stock clean cultivated except for approved cover crops.
  - (4) Following notification by the department the applicant shall remove and destroy immediately any registered vine or certified planting stock found to be off-type or affected by a virus or virus-like disease or a ((quarantined)) quarantine pest.
  - (5) ((The foundation block,)) Registered blocks and certified planting stock must be located at least one hundred feet from any land on which noncertified or nonregistered grape vines have been grown within the past ten years.

AMENDATORY SECTION (Amending WSR 99-12-025, filed 5/25/99, effective 6/25/99)

WAC 16-462-021 Requirements for registered blocks. (1) All registered grapevines must be identified by the number assigned to the ((original grapevine)) single vine source in the foundation block from which they were taken.

- (2) With the exception of practices allowed in subsections (3) and (4) of this section, registered plants must be propagated directly from cuttings taken from ((the)) a foundation block.
- (3) Plants propagated from ((the)) a foundation block by aseptic shoot tip propagation and grown entirely under greenhouse conditions may serve as a source of softwood cuttings or shoot tip culture used to establish a registered block or registered grapevines.
- (4) Registered grapevines may be propagated from other registered grapevines within the same registered block for the purpose of increasing the size of the registered block or for replacement ((grape vines)) grapevines.
- (5) Grapevines of different varieties in registered blocks must be separated by a minimum of twelve feet within the row. The distance between rows of different varieties must be a minimum of eight feet.

AMENDATORY SECTION (Amending WSR 99-12-025, filed 5/25/99, effective 6/25/99)

- WAC 16-462-022 Requirements for certified planting stock. (1) Certified planting stock must be propagated from cuttings taken from registered or foundation grapevines.
- (2) Cuttings from registered blocks must be sorted and kept separate by variety and selection number or clone.
- (3) Treatment to control <u>nematodes and other</u> soil-borne pests may be required at any time by the department.
- (4) All certified planting stock other than greenhouse grown plants must comply with the grades and standards for Washington certified grape planting stock as listed in WAC 16-462-055.
- (5) Certification is based solely on ((visual inspection of grape planting stock that is found to meet)) compliance with the requirements prescribed in WAC 16-462-050 and other requirements of this chapter.

AMENDATORY SECTION (Amending WSR 99-12-025, filed 5/25/99, effective 6/25/99)

WAC 16-462-025 Foundation, registered, and certified grape planting stock—Inspections. (1) Inspections and indexing of ((foundation,)) registered grapevines and certified planting stock will be performed by the department at times ((it determines)) determined to be suitable for the detection of virus and virus-like disease symptoms.

- (2) ((The foundation block and registered blocks must be indexed and reindexed periodically, as required to comply with)) The department will index registered grapevines by methods listed in Appendix 1 of the North American Plant Protection Organization (NAPPO) ((standards for phytosanitary measures requirements for the importation of grapevines into a NAPPO member country)) Grapevine Standard.
- (3) ((Two inspections of foundation and registered planting stock must be performed by the department)) The department will conduct at least two inspections of registered grapevines during each growing season.
- (4) Except for varieties to be used solely as rootstock, ((foundation and)) registered grape vines used for the production of certified planting stock must be pruned to allow some fruiting.
- (5) ((Certified planting stock must be inspected)) The department will inspect certified planting stock at least three times per ((growing season by the department)) year, twice during the growing season and once during or after harvest.
- (6) ((Certification or registration will be refused or withdrawn)) The department will refuse or withdraw registration or certification for any planting stock ((which)) that is infested or infected with any quarantine pest.

AMENDATORY SECTION (Amending WSR 00-01-149, filed 12/21/99, effective 1/21/00)

WAC 16-462-030 Certified grape nursery stock—Application and fees. (1) The applicant shall furnish all information requested on the application form and shall give consent to the department to take ((plants or plant parts))

samples from any planting stock enrolled in the program as registered or certified grapevines for inspection or indexing.

- (2) Application for ((inspection)) registration and certification shall be filed with the department by January 1 of each year accompanied by a one hundred seventy-five dollar application fee.
- (3) Inspection, phytosanitary certification, indexing and testing fees are due upon completion of services.
- (4) Fees for inspection, phytosanitary certification, and testing shall be assessed at the appropriate rate established in chapters 16-401 and 16-470 WAC. Mileage for inspections and other on-site services shall be charged at a rate established by the state office of financial management.

AMENDATORY SECTION (Amending WSR 99-12-025, filed 5/25/99, effective 6/25/99)

WAC 16-462-050 Certified grape planting stock—Requirements. ((Specific requirements for grape planting stock are based solely on visual inspections conducted according to WAC 16-462-025.)) Certified plants must be apparently free of ((grape)) grapevine fanleaf virus, ((grape leafroll-virus)) grapevine leafroll-associated viruses, ((grape)) grapevine corky bark ((virus)) disease agent, grapevine rupestris stem pitting virus, arabis mosaic virus, tomato ringspot virus, grape phylloxera, root knot nematode, crown gall and other visible diseases or serious pest injuries.

AMENDATORY SECTION (Amending WSR 99-12-025, filed 5/25/99, effective 6/25/99)

WAC 16-462-055 Certified grape planting stock—Grades and standards. All certified stock offered for sale must be bundled in accordance with commercial practice and correctly identified by one or more legible printed labels.

- (1) Grades for rooted cuttings are as follows:
- (a) Grade No. 1 must have one live cane at least nine inches long and must be well rooted.
- (b) Grade No. 2 must have one live cane at least six inches long and must be well rooted.
- (2) Cuttings must have at least three buds and be at least nine inches long. The basal bud must be within one-half inch of the basal end.
- (3) Two-year plants shall meet the same standard as rooted cutting Grade No. 1.
- (4) ((Tolerances.)) In order to allow for variations incident to proper grading and packing, not more than a combined total of five percent by count, of the plants or cuttings in any lot may fail to meet the requirements of the grades set forth in this section.

## WSR 02-11-107 PERMANENT RULES DEPARTMENT OF HEALTH

[Filed May 20, 2002, 12:30 p.m.]

Date of Adoption: April 23 [May 1], 2002.

Purpose: USDA released new regulations to be implemented October 1, 2002. The changes incorporated from the regulations to this rule affect all of the WIC food delivery system including the length of the contract period, how WIC conducts training, how WIC selects retailers for participation, monitoring, and compliance, sanctions for violations in the food stamp program and what can and can not be appealed.

Citation of Existing Rules Affected by this Order: Amending WAC 246-790-010, 246-790-065, 246-790-070, 246-790-080, 246-790-085, 246-790-090, 246-790-100, 246-790-120, and 246-790-130.

Statutory Authority for Adoption: RCW 43.70.120.

Other Authority: 7 C.F.R. 246.

Adopted under notice filed as WSR 02-07-020 on March 11, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 6, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 17, 2002 Mary C. Selecky Secretary

AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

WAC 246-790-010 Definitions. (1) "Alternate endorser" means a person authorized by the WIC client to pick up WIC checks at the local WIC agency and use the WIC checks at the retailer when the client is unable to do so.

- (2) "Appeal ((process)) hearing" means a formal proceeding to appeal certain program decisions. The appeal hearing process provides a contractor the opportunity to review the case record prior to the hearing, to present its case in an impartial setting, to confront and cross-examine witnesses, and to be represented by counsel.
- (3) "Applicant retailer" means any contractor submitting a completed request for authorization on behalf of a retailer requesting participation in the program.
- (4) "Authorized" or "authorization" means the applicant retailer has met selection criteria as determined by the United States Department of Agriculture (USDA) and signed a contract offered by the department signifying eligibility to participate in the WIC program.
  - (5) "CFR" means the Code of Federal Regulations.

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- (6) "Contract" means a written legal document binding the contractor and the department, represented by the WIC program, to designated terms and conditions.
- (7) "Contractor" means the owner, chief executive officer, controller, or other person legally authorized to obligate a retailer to a contract.
- (8) "Department" means the Washington state department of health.
- (9) "Disqualification" means the act of revoking the authorization and terminating the contract of an authorized retailer for noncompliance with WIC program requirements.
- (10) "Effective policy and program to prevent trafficking" means a written document that states what ((you)) can and cannot ((do)) be done with WIC checks and the consequences for failing to follow program requirements. Effectiveness is determined by documentation that a retailer has provided this written policy to all employees ((prior to any noncompliance being detected)), including employees' signatures verifying they have been advised of the policy and understand the consequences of noncompliance, both for the retailer and for the employee, prior to any noncompliance being detected.
- (11) "Food company" means a manufacturer or broker of food items.
- (12) "Inadequate ((participant)) client access" means the decision the state agency makes considering a variety of factors to determine how disqualification of a WIC retailer might affect a WIC client's access to WIC foods. The procedure includes, but is not limited to, assessing how many WIC authorized retailers are in a given service area, how many clients currently use the retailer in question, and any geographical or man-made barriers a client would contend with to access WIC foods at a different authorized retailer.
- (13) "Local WIC agency" means the contracted clinic or agency where a client receives WIC services.
- (14) "Monetary penalty" means a sum of money imposed by the program for noncompliance with program requirements.
- (15) "Pattern" means more than one documented incidence of noncompliance with WIC program requirements in any given contract period.
- (16) "Providing credit" means the retailer submitted and received payment ((on a WIC check)) for ((which the client did not receive)) all the foods listed on ((the)) a WIC check even though the client did not receive all the foods at the time the check was redeemed. ((The client may or may not receive the remaining foods or something of equal value at a later time.))
- (17) "Redeeming WIC checks outside of authorized channels" means not following the rules regarding who can accept WIC checks and how to redeem them. Examples include, but may not be limited to:
- (a) A retailer accepting WIC checks without having a signed contract with the WIC program;
- (b) A retailer accepting WIC checks payable to a different authorized retailer or a different outlet of the same chain and redeeming them through that other retailer; or
- (c) A retailer using WIC checks to repay a debt at a different retailer.

- This violation also applies to the retailer who receives and deposits the WIC checks from the retailer who accepted them.
- (18) "Reauthorization" or "subsequent authorization" means the process when a retailer who has a contract with the ((program)) department which is expiring, has reapplied, met the selection criteria, and signed another contract with the department ((signifying eligibility)) to participate in the WIC program.
- (((18))) (19) "Supplemental WIC foods" means those foods containing nutrients determined to be beneficial for pregnant, breast-feeding, and postpartum women, infants and children, as prescribed by federal regulations and state requirements, and, as authorized by the Washington state WIC program.
- (((19))) (20) "Trafficking" means buying or selling WIC checks for cash.
- (((20))) (21) "WIC program" or "program" means the federally funded special supplemental nutrition program for women, infants, and children administered in Washington state by the department of health.
- (((21))) (22) "WIC retailer" or "retailer" means an individual store owned by a contractor authorized to participate in the WIC program.
- $(((\frac{22}{2})))$  (23) "Wholesaler" means a business entity that sells food and other items to a retailer.
- ((<del>(23)</del>)) (24) "WIC check" means a negotiable instrument issued to and used by a WIC client or alternate endorser to obtain specified supplemental WIC foods ((at)) from a contracted WIC retailer.
- (((24))) (25) "WIC client" or "client" means a woman who is pregnant, breast-feeding, or postpartum, infant, or child receiving WIC benefits.
- AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)
- WAC 246-790-050 What is the WIC program? (1) The WIC program in the state of Washington is administered by the department of health.
- (2) The WIC program is a federally funded program established in 1972 by an amendment to the Child Nutrition Act of 1966. The purpose of the program is to provide nutrition and health assessment( $(\tau)$ ); nutrition education( $(\tau)$ ); nutritious food; breast-feeding counseling; and referral services to pregnant, breast-feeding, and postpartum women, infants, and children in specific risk categories.
- (3) Federal regulations governing the WIC program (7 CFR Part 246) require implementation of standards and procedures to guide the state's administration of the WIC program and are hereby incorporated in this rule by reference. These regulations define the rights, responsibilities, and legal procedures of clients and retailers. They are designed to promote:
  - (a) Consistent and high quality services to clients;
- (b) Consistent application of procedures for eligibility and food issuance; and
  - (c) Client and retailer compliance.

AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

- WAC 246-790-065 What is the process for getting a food WIC authorized? (1) The procedure for ((initially)) authorizing a food is:
- (a) ((By December 31 of odd numbered years,))  $\underline{A}$  food company or other entity, such as a local WIC clinic, submits a written request to the WIC program for authorization of a food((, to)). The request includes:
- (i) Package flats or labels, information on package sizes and prices, and a summary of current distribution, including identification of the wholesaler(s) carrying the food; and
- (ii) Assessment of when the new food replaces the old on store shelves when there is a change in formulation.
- (b) The WIC program verifies if a food considered for authorization fits within one of the authorized food categories, meets the federal requirements of nutritional standards, is <u>currently</u> available to retailers, and has been available to retailers for <u>at least</u> one year ((or more));
- (c) The WIC program may survey local WIC agency staff and clients for their recommendation regarding need and demand for the food:
- (d) The WIC program reviews data and recommendations and notifies the food company whether or not a food is authorized((;
- (e) The WIC program will add any new authorized food to the WIC check and related materials to coincide with the retailer contract period)).
- (2) Food companies must notify the WIC program in writing of any changes in product formulation, product name, packaging, label design, size, or availability. A food company must notify the WIC program of any ((such)) changes before any Washington state wholesaler receives the new product.

If a food company fails to notify the WIC program of any changes, the WIC program may revoke or deny ((the food's)) WIC authorization of the product.

- (3) ((A food company must obtain written approval from the WIC program before using the term "WIC approved" or the WIC program logo.
- (4))) The WIC program may require a food company to submit a statement guaranteeing a minimum period of time during which a food will be available in the state of Washington.
- (((5))) (4) The WIC program shall refuse any food that contradicts the principles promoted by the WIC program's nutrition ((service)) component.
- (((6))) (5) The WIC program may limit the number of authorized foods within a food category.
- (((7))) (6) The WIC program may initiate reassessment of any WIC authorized food at any time.
- (7) The WIC program may evaluate a food for authorization outside of the three-year food review cycle if necessary.
- (8) A food company must obtain written approval from the WIC program before using the term "WIC approved" or the WIC program logo.

AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

#### WAC 246-790-070 How do I become a WIC retailer?

- (1) Applicant retailers interested in participating in the WIC program must apply for authorization and enter into a contract with the department.
  - (2) Application procedure.
- (a) Applicant retailers submit a completed application to the WIC program, including a price list for authorized WIC foods.
- (b) The WIC program may require applicant retailers to provide information regarding shelf price records and inventory records showing all purchases, both wholesale and retail, including but not limited to, wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods and other pertinent records that substantiate the volume and the prices charged. Cash register receipts without specific identification of the quantity, unit price, and WIC food purchased are not acceptable as evidence of WIC food purchases.
- (c) The WIC program conducts and documents an onsite visit prior to, or at the time of, initial authorization of an applicant retailer to evaluate the inventory of WIC foods and provide training on ((the)) WIC ((retailer handbook)) requirements.
- (d) Applications are accepted ((from April 1 of odd-numbered years until September 30 of even-numbered years)) on an ongoing basis, except for the six months prior to contract expiration during which no applications are accepted. Exceptions can be made in the case of an ownership change or where there is a documented need for a location in order to assure client access. The WIC program may further limit acceptance of new applications as needed.
- (3) The WIC program shall authorize a distribution of retailers to ensure client access. The WIC program may limit the number of authorized retailers in any given geographic area or statewide to enable effective management of the retailers.
- (4) The WIC program bases selection of <u>each</u> authorized retailer((s)) on the following:
  - (a) Number of clients served.
- (i) An applicant retailer needs to have requests from or the potential of serving at least fifteen ((or more)) WIC clients who are currently receiving checks from the WIC program as verified by the local WIC agency ((for new stores)).
- (((b) A)) (ii) Retailers applying for reauthorization must have a documented check redemption record averaging at least forty ((or more)) checks per month over a six-month period((, documented by WIC program statistics reports for stores who are reapplying)).
  - (((e))) (iii) Exceptions may be made for:
- $((\frac{(i)}{i}))$  (A) Pharmacies needed as suppliers of special infant formulas; or
- (((ii))) (B) Applicant retailers in isolated areas where client access cannot otherwise be assured.

In either case, the need must be documented by the local WIC agency.

((<del>(d)</del>)) (b) Minimum stock levels.

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- (i) A retailer or applicant retailer must stock ((of representative items)) a reasonable variety of items with current shelf lives from all food categories on the authorized WIC food list. Minimum quantities specified on the authorized WIC food list must be on the shelf available for purchase before a contract is offered ((to the retailer. An applicant retailer seeking a waiver from the minimum formula stock requirement must request the waiver in writing for each contract period. No waivers are granted unless there is an insufficient number of authorized retailers in a given service area to assure client access)).
- (((e))) (ii) A retailer or applicant retailer is not required to carry every brand of WIC allowed infant formula, but must carry at least the minimum quantity of the WIC contract formulas.
- (c) Prices. A retailer's prices ((of)) for individual WIC foods ((less than)) must not exceed one hundred twenty percent of the statewide average price ((as calculated at least annually. An applicant retailer seeking a waiver from the one hundred twenty percent requirement must request the waiver in writing for each contract period. No waivers shall be granted unless there is an insufficient number of authorized retailers in a given service area to assure client access)) for that food at time of authorization or at any given time in the contract period;
- (((f) Possession of)) (d) Business operations. A retailer or applicant retailer must:
- (i) Possess a valid Washington state tax registration (UBI) number;
- (((g) Agreement to)) Exception may be made for a store needed in border towns of Oregon and Idaho to ensure client access to WIC foods.
  - (ii) Possess a valid food stamp authorization number.

Exception may be made for a pharmacy needed to ensure client access to hard to find formulas.

- (iii) Operate from a fixed location.
- (iv) Be open for business a minimum of eight hours per day, six days per week.
- (v) Maintain a clean and safe interior environment by, for example, complying with local sanitation rules.
- The WIC program may request a health inspection and report by the local health department at any time in the contract period.
  - (e) Business integrity.
- (i) The WIC program will take into consideration if a retailer or applicant retailer has been disqualified from WIC or the food stamp program or has been assessed a monetary penalty in lieu of a food stamp disqualification in the last six years.
- (ii) An owner, officer, or partner of a retailer or applicant retailer must not have sold a store to circumvent a WIC sanction.
- (iii) A retailer or applicant retailer with any owner, officer, partner, or manager who has been convicted of or had a civil judgment for any of the following in the last six years will be denied authorization or have authorization revoked: Fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice.

- (iv) The WIC program reserves the right to conduct background checks on any retailer, owner, officer, partner, or manager.
  - (f) Compliance with the WIC contract.
- (i) A retailer must attend face-to-face training on WIC requirements at least once per contract period.
- (ii) A retailer must comply with ((training sessions and)) monitor visits((7)) and provide shelf price records and inventory records, upon the WIC program's request, showing all purchases, both wholesale and retail, including but not limited to, wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods, and other pertinent records that substantiate the volume and prices charged ((upon the WIC program's request;)).
  - (((h) Business operation from a fixed location;
- (i) Open for business a minimum of eight hours per day, six days per week.
  - (j) In compliance with local sanitation rules;
  - (k) Have no history of any of the following:
  - (i) WIC or food stamp disqualification;
- (ii))) (g) History. A retailer or applicant retailer with a history of any of the following may be denied authorization unless client access to WIC food cannot otherwise be assured:
- (i) Redeeming WIC checks without ((authorization)) having a signed contract with the department;
- ((((iii))) (ii) Changing ownership more than twice during a ((two)) three-year ((contracting)) contract period;
- (((iv))) (iii) Failing to implement corrective action imposed by the WIC program within the time specified;
- (((v))) (iv) Failing to complete payment, within the time specified, of an imposed monetary penalty or reimbursement of an overcharge((; and
- (vi) Refusing to accept training from the WIC program.

  Exceptions may be made if elient access cannot otherwise be assured)).
- (5) The WIC program may deny a retailer authorization for failure to meet any of the stated selection criteria.
- (6) The WIC program may reassess an authorized retailer's compliance with the retailer selection criteria any time in the contract period and must terminate the contract of any retailer which fails to meet them.

AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

- WAC 246-790-080 What do I need to know about WIC retailer contracts? (1) All authorized retailers must enter into written contracts with the department. The contract must be signed by the contractor and the designee of the contracting officer of the department of health.
- (2) The contract lists all authorized retailers by name and location. Individual retailers may be added, changed, disqualified, or deleted by contract amendment without affecting the remaining retailers.
  - (3) Duration of contract.
- (a) The WIC program issues contracts for a maximum period of ((two)) three years. ((All contracts expire on March 31 of odd-numbered years.))

- (b) Neither the WIC program nor the contractor is obligated to renew the contract. The WIC program must notify contractors in writing not less than fifteen days before the expiration of a contract which is not being renewed ((by the program)).
- (c) Authorization is valid for no longer than the period stated in the contract. The retailer must reapply to be considered for subsequent authorization in the WIC program.
- (d) The contractor or the WIC program may terminate the contract at any time by submitting a written notice to the other party thirty days in advance.
- (e) The contract is null and void in the event of a retailer closure or change in ownership.
- (f) The contractor cannot voluntarily withdraw from participating in the WIC program in order to avoid being disqualified.

### AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

- WAC 246-790-085 What is expected of WIC retailers? (1) The retailer must comply with WIC program requirements and terms of the retailer contract.
- (2) The retailer must stock sufficient quantities of authorized WIC foods to meet the needs of WIC customers, but not less than the minimum stock levels.
- (3) The retailer must redeem WIC checks made payable only to their store or with the words "any authorized WIC vendor."
- (4) The retailer must accept WIC checks from a WIC customer on the "first day to use," the "last day to use," or any day in between the dates printed on the WIC check. The retailer must submit the WIC check for payment within sixty days from the "first day to use."
- (5) The retailer must refuse WIC checks that have the purchase price missing, the client's signature missing, the "first day to use" or the "last day to use" missing, or that are dated too early or too late.
- (6) The retailer must refuse WIC checks with purchase amounts over the "not to exceed" amount printed on the check
- (7) The retailer must ((enter)) write the actual purchase price of the specific quantity of WIC authorized foods on ((each)) the WIC check before witnessing the WIC customer countersign((s)) the check.
- (8) The retailer must accept only WIC checks on which the WIC customer's countersignature matches the first customer signature on the check.
- (9) The retailer must refuse WIC checks that are altered in any way.
- (10) The retailer must refuse ((to-accept)) WIC checks from any other retailer.
- (11) The retailer must redeem WIC checks for only the supplemental WIC foods and in no more than the quantity specified on the check.
- (12) The retailer must post the prices of WIC foods so they are visible to the public.
- (13) The retailer must provide supplemental foods at the current price or at less than the current price charged to other customers.

- (14) The retailer must not sell WIC-authorized foods after the manufacturer's expiration date.
- (15) The retailer must reimburse the WIC program for documented overcharges and payments made on improperly handled WIC checks.
- (16) The retailer must not seek restitution from WIC customers for WIC checks not paid, partially paid, or reclaimed by the WIC program, nor seek restitution through a collection agency.
- (17) The retailer must not request cash or give change in a WIC transaction.
- (18) The retailer must not impose a surcharge or charge sales tax on any food purchased with WIC checks.
- (19) The retailer must refuse WIC customers' requests for exchanges or cash refunds for returned WIC foods. Exceptions may be made for exchange of food due to spoilage or expired date not noticed by the WIC customer at the time of the WIC transaction. The exchange must be for the identical WIC allowed brand and size as the original authorized food.
- (20) The retailer must not issue rain checks, any form of credit, or otherwise charge the WIC program for foods not received by the WIC customer at the time the WIC check is redeemed.
- (21) The retailer must treat WIC customers with the same courtesy provided to other customers.
- (22) The retailer must comply with federal and state nondiscrimination laws.
- (23) The contractor is responsible for the actions or inactions of <u>its owners</u>, <u>officers</u>, <u>managers</u>, employees, agents, and authorized retailers with regard to participation in the WIC program.
- (24) The manager of the retailer or ((an)) at least one authorized representative, such as head cashier, must attend the mandatory training on WIC program requirements and procedures prior to issuance of a contract and as otherwise required by the WIC program. ((Those)) All individuals receiving training must sign a document verifying their attendance and understanding of the contents of the training. The WIC program provides this training at no cost to the retailer.
- (25) The individuals attending training must inform and train other employees on WIC program requirements and WIC check cashing procedures.
- (26) The retailer must provide access to its facilities at all reasonable times for WIC program representatives to monitor, to provide training or technical assistance, and to evaluate performance, compliance, and quality assurance.
- (27) The retailer must provide access to redeemed WIC checks for the purpose of review by the program representative during any on-site visit.
- (28) Retailers must maintain inventory records showing all purchases, both wholesale and retail, for a period of at least one year after the expiration of the contract with the WIC program. These inventory records include, but are not limited to, shelf price records, wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods, and other pertinent records that substantiate the volume and prices charged and provide WIC program representatives access to those records on request.

- (29) Each retailer must provide the WIC program with a completed price list of authorized WIC foods on request((, but not more than twelve times per year)) or at least quarterly.
- (30) The contractor must notify the WIC program in writing of any change of ownership, retailer name, location and/or cessation of operation for any reason at least thirty days before the effective date of the change.
- (31) Contractors must observe time lines, such as deadlines for submitting price lists and returning properly signed contracts. Failure of contractors to do so may result in denial or termination of authorization.
- (32) Contractors must take corrective action as directed by the WIC program. Examples of corrective action include, but are not limited to, payment of monetary penalties and reimbursements, conducting monthly education buys, and filing requested progress reports.

AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

WAC 246-790-090 How are WIC retailer contracts monitored? (1) The WIC program conducts on-site compliance reviews at retailer locations to monitor retailer compliance with program requirements.

- (2) Preauthorization visits.
- (a) Visit is scheduled in advance.
- (b) The WIC program representative provides training on the WIC <u>Retailer Handbook</u> ((which)) that includes information on WIC foods and WIC check handling, and collects information on WIC food stock levels and shelf prices.
- (c) The retailer signs the preauthorization visit form verifying receipt of the training, understanding of program requirements, and the commitment to train store personnel.
  - (3) Compliance visits.
  - (a) Visit may or may not be scheduled in advance;
- (b) The WIC program representative may do some or all of the following during a visit: Review WIC check handling procedures, WIC food stock levels, expiration dates and prices, WIC checks negotiated but not yet deposited, shelf price records, wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods, and other pertinent records that substantiate the volume and prices charged( $(\tau_7)$ ); provide training or technical assistance( $(\tau_7)$ ); and verify implementation of a corrective action plan.
- (c) The WIC program representative documents the name of the retailer, the name of the program representative, the names of all persons interviewed, the date of the visit, any problems or concerns detected ((or the observation the retailer appears to be in compliance)), any corrective action plan if problems are detected, and the signatures of the program representative and the retailer.
  - (4) Compliance purchases.
  - (a) The WIC program representative acts covertly;
- (b) The ((WIC)) program representative may make a purchase using WIC checks or may attempt trafficking;
- (c) The WIC program representative completes a report on the visit itemizing information including but not limited to, a description of the checker involved, the time and date of

the transaction, the number of check stands opened and closed, other customers in line, exact items purchased and/or refused, the prices charged, comments of the checker, observations of the investigator or the investigative aide, any stock deficiencies noted, any other pertinent information, and the signature of the investigator.

#### (5) Inventory audits.

- (a) The WIC program representative requests inventory records showing all purchases, both wholesale and retail, by a contractor for a retailer. Acceptable forms of inventory records include wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods, and other pertinent records that substantiate the volume of WIC foods purchased and prices charged. Cash register receipts without specific identification of the quantity, unit price, and WIC food purchased are not acceptable as evidence of WIC food purchases.
- (b) The WIC program representative compares the inventory records provided by the contractor with information from the WIC data system showing the volume of WIC food purchased.

AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

WAC 246-790-100 What happens if I don't comply with the WIC retailer contract or rules? (1) Retailers who commit acts of noncompliance ((are)) may be liable to prosecution in accordance with federal regulations (7 CFR 246.12 and 7 CFR 246.23). Noncompliance is failure to follow WIC program requirements ((including)). Examples of noncompliance include, but are not limited to:

- (a) Buying or selling WIC checks for cash (trafficking);
- (b) Selling firearms, ammunition, explosives, or controlled substances for WIC checks;
  - (c) Selling alcohol or tobacco for WIC checks;
- (d) Charging WIC for food not available to buy and having no documentation of having had enough food on the shelf for WIC clients to buy;
- (e) Providing unauthorized food or other items to WIC customers in lieu of or in addition to authorized WIC supplemental foods;
- (f) Selling or offering to sell foods with expired shelf lives;
- (g) Charging the WIC program for foods not received by the customer:
- (h) Charging the WIC program more for authorized WIC supplemental foods than other customers are charged for the same food;
- (i) Providing credit or nonfood items to customers in a WIC transaction;
- (j) Charging WIC customers cash or giving change in a WIC transaction;
- (k) Redeeming WIC checks outside of authorized channels((\(\frac{1}{2}\))). For example, a retailer accepting WIC checks without having a signed contract with the WIC program ((\(\frac{and}{0}\)); a retailer accepting WIC checks ((\(\frac{payable elsewhere then working out an exchange with that other retailer)\) and redeeming them through a different authorized retailer or a

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different outlet of the same chain; or a retailer using WIC checks to repay debt at a different authorized retailer. This also includes the retailer who receives and deposits the WIC checks from another retailer;

- (l) Failing to write the actual purchase price on the WIC check at the time of the WIC transaction; ((and))
- (m) Failing to maintain adequate stock of WIC foods on the retailer's shelves; and
- (n) Providing false information in connection with an application for WIC authorization.
- (2) The WIC program may deny payment to, impose monetary penalties on and disqualify retailers for noncompliance with WIC program requirements and terms of the retailer contract.
- (3) The WIC program must seek reimbursement from retailers for documented overcharges and for payments made on improperly handled WIC checks.
- (4) Retailers found in noncompliance, except for the offenses listed in the first five rows of the table in subsection (6) of this section, will be notified by the WIC program and given the opportunity to correct the deficiency. Methods of notification include, but are not limited to, technical assistance contacts and notice of correction letters. ((Repeating any)) After the opportunity for corrective action, a retailer who repeats an act of noncompliance will be subject ((a retailer)) to sanctions according to the sanction schedule.
- (5) When the WIC program denies ((a retailer authorization, denies)) payment, imposes a monetary penalty, requests reimbursement, or disqualifies a retailer, the program must give the contractor written notice not less than fifteen days prior to the effective date of the action. ((The)) Denial of authorization and permanent disqualification are effective the date the notice is received by the contractor. Every notice must state what action is being taken, the effective date of the action, and the procedure for requesting an appeal hearing if the action is one which can be appealed.
- (6) The WIC program must disqualify the WIC retailer for the following:

Violation	Length of Disqualification
Disqualification from the food stamp program by the <u>USDA</u> food and nutrition service;	Time period corresponding to food stamp program disqualification
Conviction for trafficking in WIC checks or exchanging firearms, ammunition, explosives, or controlled substances for WIC checks;	Permanent
One incidence of trafficking;	Six years
One incidence of exchanging fire- arms, ammunition, explosives, or controlled substances for WIC checks;	Six years
One incidence of exchanging any form of alcohol or tobacco for a WIC check;	Three years
A documented pattern of charging WIC for food not available to buy and having no documentation of having had enough food on the shelf for WIC clients to buy;	Three years

Violation	Length of Disqualification
A documented pattern of over- charging, including charging more than the shelf price((,)) <u>and</u> charg- ing more than for non-WIC cus- tomers((, <del> and charging for food not- received by the customer</del> ));	Three years
A documented pattern of charging for food not received by the customer;	Three years
A documented pattern of redeeming WIC checks outside of authorized channels;	Three years
A documented pattern of providing credit or nonfood items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 N.S.C. 802, in exchange for WIC checks;	Three years
A documented pattern of selling unauthorized foods or selling more than the amount of food listed on the WIC check.	One year

- (7) At the end of the disqualification period, the retailer must reapply to be considered for authorization.
- (8) Prior to disqualifying a retailer, the WIC program must consider whether the disqualification would create inadequate access to WIC foods for WIC clients. If the WIC program determines a retailer's disqualification would result in inadequate client access to WIC foods, the WIC program may impose a monetary penalty in lieu of disqualification.
- (9) Monetary penalties are calculated in accordance with federal regulations using the following formula:
- (a) Average the retailer's monthly volume of WIC business over at least the six-month period ending with the month preceding when the notice to the retailer is dated;
  - (b) Multiply the average by ten percent (.10);
- (c) Multiply that number by the number of months for which the store would be disqualified. This is the amount of the monetary penalty.
- (10) Monetary penalties must not exceed ten thousand dollars for each violation. For a violation warranting permanent disqualification, the monetary penalty is ten thousand dollars. If several violations are documented during the course of one investigation, the department must impose a monetary penalty for each violation, not to exceed a total of forty thousand dollars.
- (11) Monetary penalties and reimbursements must be paid to the revenue section of the department within the time period specified in the notice. Retailers who fail to pay within the time period specified in the notice will be referred to a commercial collection agency and disqualified for the length of time corresponding to the violation.
- (12) When a retailer who has already been sanctioned for noncompliance is found out of compliance again, the department must double the sanction. A monetary penalty in lieu of disqualification is not an option for third or subsequent incidences of noncompliance.

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(13) A contractor who fails to give the specified notice of closure, a change in ownership, retailer name, and/or location is liable for resultant costs incurred by the WIC program.

AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

## WAC 246-790-120 How do I appeal a WIC decision I don't agree with? (1) The contractor may appeal:

- (a) Notice of denial of payment;
- (b) Denial of authorization;
- (c) An authorization determination made using retailer selection criteria;
  - (d) Termination of the retailer contract for cause;
- (e) Termination of the retailer contract because of a change in ownership or location, or cessation of operations;
  - (f) Monetary penalty in lieu of disqualification;
  - (((d))) (g) Reimbursement; or
  - (((e))) (h) Disqualification.
  - (2) Actions not subject to appeal are:
  - (a) Expiration or nonrenewal of a WIC contract;
- (b) ((Department determination regarding inadequate elient access to WIC foods; and
- (e))) The validity or appropriateness of client access criteria;
- (c) The department determination regarding inadequate client access to WIC foods;
- (d) The validity or appropriateness of retailer selection criteria;
- (e) The determination whether the retailer had an effective policy and program in place to prevent trafficking and whether ownership was aware of, approved of, or was involved in the violation;
- (f) Disputes regarding check payments (other than the opportunity to justify or correct an overcharge or other check error); and
- (g) Disqualification based on a food stamp program disqualification.
- (3) When the action being appealed is disqualification, the retailer must cease redeeming WIC checks effective the date specified in the notice and must not accept WIC checks during the appeal period. The department will not pay any WIC checks redeemed by a retailer during a period of disqualification.
- $((\frac{3}{3}))$  (4) A request for an appeal hearing must be in writing and:
  - (a) State the issue ((raised));
- (b) Contain a summary of the contractor's position on the issue, indicating whether each charge is admitted, denied, or not contested;
- (c) State the name and address of the contractor requesting the appeal hearing;
- (d) State the name and address of the attorney representing the contractor, if applicable;
- (e) State the contractor's need for an interpreter or other special accommodations, if necessary; and
  - (f) Have a copy of the notice from the program attached.
- (((4))) (5) A request for an appeal hearing must be filed at the Adjudicative Clerk's Office, Department of Health, 1107 Eastside St., P.O. Box 47879, Olympia, WA 98504-

7879. The request must be made within twenty-eight days of the date the contractor received the notice.

(((5))) (6) The decision concerning the appeal must be made within sixty days from the date the request for an appeal hearing was received by the Adjudicative Clerk's Office. The time for rendering the decision may be extended by as many days as all parties agree to with good cause.

AMENDATORY SECTION (Amending WSR 00-13-009, filed 6/9/00, effective 7/10/00)

WAC 246-790-130 How does the WIC program get input from the food industry? (1) The WIC program may establish a retailer advisory committee for the purpose of soliciting input on policies, procedures, and other matters pertinent to retailer participation in the WIC program.

- (2) The retailer advisory committee meets at least two times per year.
- (3) The membership of the retailer advisory committee consists of representation of at least the following:
  - (a) Washington Food Industry;
  - (b) Manager or checker trainer from a large chain;
  - (c) Manager or checker trainer from a small chain;
  - (d) Minority-owned retailer;
- (e) Instructor of a checker training program with a technical college;
  - (f) Local WIC agency staff person;
  - (g) Current or former WIC client;
- (h) Administrative representative, such as loss prevention or risk manager or human resources representative, from any size retailer;
- (i) Owner of an independent retailer (single store); ((and))
  - (j) A union representative; and
  - (k) A military commissary.

# WSR 02-11-108 PERMANENT RULES DEPARTMENT OF HEALTH

(Counselor Programs) [Filed May 20, 2002, 12:32 p.m.]

Date of Adoption: April 18, 2002.

Purpose: Repeal obsolete WACs. To transfer the continuing education requirements from certification WAC 246-810-600 - 246-810-660 to licensure WAC 246-809-600 - 246-809-650.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-810-600, 246-810-610, 246-810-620, 246-810-630, 246-810-640, 246-810-650 and 246-810-660; and [new sections] WAC 246-809-600 - 246-809-650.

Statutory Authority for Adoption: Chapter 18.19 RCW. Adopted under notice filed as WSR 01-22-064 on November 1, 2001.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 12.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 12.

Effective Date of Rule: Thirty-one days after filing.

May 17, 2002 Mary C. Selecky Secretary

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-810-600	Who is required to have continuing education?
WAC 246-810-610	What courses are acceptable?
WAC 246-810-620	What are industry-recog- nized local, state, national, international organizations or institutions of higher learn- ing?
WAC 246-810-630	How many hours do I need and in what time period?
WAC 246-810-640	How are credit hours determined for preparation and presentation of a lecture or an educational course?
WAC 246-810-650	How do I document my courses?
WAC 246-810-660	What are the continuing edu- cation requirements for returning to active status from a temporary retirement status?

#### **CONTINUING EDUCATION**

#### **NEW SECTION**

WAC 246-809-600 Who is required to have continuing education? (1) Licensed marriage and family therapists, licensed mental health counselors, and licensed social workers are required to have continuing education.

(2) The effective date for reporting the required continuing education shall begin with the 2004 renewal cycle.

#### **NEW SECTION**

WAC 246-809-610 What courses are acceptable? The continuing education (CE) program or course shall contribute to the advancement, extension and enhancement of the professional competence of the licensed counselor. Courses or workshops primarily designed to increase practice income or office efficiency are specifically not eligible for CE credit. Counselors are encouraged to take CE relating to the various phases of their professional career.

- (1) Acceptable CE courses (including distance learning), seminars, workshops and postgraduate institutes are those which are:
- (a) Programs having a featured instructor, speaker(s) or panel approved by an industry-recognized local, state, national, international organization or institution of higher learning; or
- (b) Distance learning programs, approved by an industry-recognized local, state, national or international organization or institution of higher learning. These programs must require tests of comprehension upon completion.
- (2) Training programs sponsored by the agency where a counselor is employed are acceptable if:
- (a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the licensed counselor; and
- (b) The training programs are limited to twenty-six hours per reporting period.
- (3) Other learning experience, such as serving on a panel, board or council, community service, or publishing articles for professional publications are acceptable if:
- (a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the licensed counselor; and
- (b) The experience is limited to six hours per reporting period.

#### **NEW SECTION**

WAC 246-809-620 What are industry-recognized local, state, national, international organizations or institutions of higher learning? They are, but are not limited to, the following organizations:

- (1) American Association for Marriage and Family Therapy,
  - (2) Clinical Social Work Federation;
  - (3) National Association of Social Workers;
  - (4) American Mental Health Counselors Association;
  - (5) National Board for Certified Counselors; or
- (6) Institutions of higher learning that are accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

#### **NEW SECTION**

WAC 246-809-630 How many hours do I need and in what time period? Licensed counselors must complete thirty-six hours of continuing education every two years. At least six of the thirty-six hours must be in professional ethics and law.

#### **NEW SECTION**

WAC 246-809-640 How are credit hours determined for preparation and presentation of a lecture or an educational course? The license holder who prepares and presents lectures or education that contributes to the professional competence of a licensed counselor may accumulate the same number of hours obtained for continuing education purposes by attendees as required in WAC 246-12-220. The hours for presenting a specific topic lecture or education may only be used for continuing education credit once during each reporting period.

#### **NEW SECTION**

WAC 246-809-650 How do I document my courses? Acceptable documentation shall include transcripts, letters from course instructors, certificate of completion, or other formal certification, as required in chapter 246-12 WAC, Part 7.

## WSR 02-11-109 PERMANENT RULES DEPARTMENT OF HEALTH

[Filed May 20, 2002, 12:33 p.m.]

Date of Adoption: February 17, 2002.

Purpose: These rules implement RCW 70.54.340 which directs the Department of Health (DOH) to protect the public's health by adopting sterilization procedures and infection control standards for electrology and tattooing.

Statutory Authority for Adoption: RCW 70.54.340.

Adopted under notice filed as WSR 02-02-076 on December 31, 2001.

Changes Other than Editing from Proposed to Adopted Version: Based on written comments as well as comments and discussion heard at the public hearing for adoption, the department has separated the standards for electrology and tattooing within WAC 246-145-020 and 246-145-030.

In addition, the department added clarifying language regarding cleaning and disinfecting countertops, vacuuming and cleaning flooring and the frequency of spore tests for sterilizers. The department also revised the small business economic impact statement and cost benefit analysis based on comment. The department doubled the number of business surveys, and included additional research on medical impacts of electrology and tattooing. Individuals may obtain copies of the revised analyses by contacting Anh Berry at 1107 Eastside Street, Olympia, WA 98504-7879, phone (360) 236-4028.

#### **Revised Small Business Economic Impact Statement**

#### I. What Does the Rule or Rule Amendment Require?

The proposed rule sets standards for electrology and tattooing to prevent transmission of bloodborne pathogens such as HIV, Hepatitis B, and possibly Hepatitis C Virus. The standards require prevention behaviors for personnel, sterile equipment, and needles. The requirements lay out a set of

procedures for different types of circumstances. The proposed procedures include the universal precautions for infection control recommended by the United States Center for Disease Control and Prevention, the Alliance of Professional Tattooists, and the National Environmental Health Association

The proposed standards require that basic hygienic conditions and sterilization equipment be maintained through:

- Regular cleaning and disinfecting of walls, floors, and other frequently touched surfaces such as, equipment, lamps;
- Hand washing;
- Use of fresh, unpunctured gloves for contact [with]
  each client to prevent exposure to blood and body fluids, mucous membranes, nonintact skin of all clients,
  and surfaces soiled with blood or body fluids;
- Precautions to prevent injuries caused by needles and other sharp instruments or devices during procedures when cleaning[,] disposing of or handling sharp instruments;
- Using puncture-resistant containers for sharps disposal;
- Using band aids with gloves if personnel have small unhealed sores;
- Assuring that sterilizers have a thermometer and timer to indicate whether adequate heat has been applied to packaged equipment;
- Using or checking chemical indicators for each package to assure the items have been exposed to the sterilization process; and
- Monitoring sterilizers at least once a month with commercial preparations of spores intended specifically for the type of sterilizer being monitored.

The proposed standards require the use of clean and sterile needles and sharps. Specific needle and sharps related actions include:

- Using only single-use, disposable needles and sterile sharp items and instruments;
- Using single-use items on only one client. Single-use items must be disposed of immediately in a punctureresistant container;
- Thoroughly cleaning and sterilizing reusable sharp items and instruments in an autoclave or dry-heat sterilizer between clients;
- Resterilizing instruments or sharps that have been potentially contaminated by dropping or touching an unsterile surface, by torn, punctured, damaged, or wet packaging; and
- Discarding any single use item that has been potentially contaminated by dropping or touching an unsterile surface, by torn, punctured, damaged, or wet packaging or if the expiration date is expired.

Violations are a misdemeanor and an individual (or violator) may therefore be subject to penalties of up to ninety days imprisonment and/or \$1,000 under RCW 9.92.020.

II. What industries are affected? Standard Industrial Classification (SIC) Code 7299 Miscellaneous Personal Services, Not Elsewhere Classified, contains both Electrolysis and Tattooing. The average size of the largest 10% of busi-

Permanent [110]

nesses in this sector is 19.13 employees and the average size of the remaining businesses is 4.1 employees.

<i>!</i>			Average Er	mployment
	Number Of Firms	Total Employ- ment	Small Business	Large Business
7299 Misc. personal services	530	2,668	4.10	19.13

III. What are the costs? The Department of Health used a survey of sixty-one establishments to estimate the costs of the rule. To estimate the potential cost to firms that may need to adjust their procedures, staff used the information from firms that are already in compliance with universal precautions for infection control.

Most shops surveyed reported compliance with all parts of the rule. A few shops reported they would need to change some practices. The average cost of compliance for tattoo and electrology shops that are not currently in compliance with the three reported problem requirements would be \$16,000 per year.

The rule will have no impact on 93% of the shops interviewed because they are already in compliance. 6.8% of the companies reported being out of compliance with one provision.<sup>1</sup>

The following list of provisions indicates the costs by type for each part of the rule.

- Equipment:
  - Companies may need to replace equipment such as tables or surfaces that cannot be sterilized. None of the companies interviewed will need to do this.
  - b. Companies may need to purchase equipment to sterilize their materials. 3% of the electrology shops interviewed will need to purchase sterilization equipment.
  - c. Companies may need to purchase a container for sharps. None of the companies interviewed will need to purchase a container for sharps.

The companies that need to purchase equipment such as sterilization equipment will experience an average reported cost of \$250.

- Supplies and testing services:
  - a. Companies that do not use gloves will have to purchase gloves. All respondent companies already use gloves.
  - b. Companies that do not use disposable needles must shift to disposable needles. All companies reported using disposable needles already. The average cost of disposable needles is \$11,000 per year for a full time tattoo artist and \$4,000 per year for a full time electrologist.<sup>2</sup>
  - c. Companies that use a sterilizer will have to purchase testing chemicals and/or spores. All but one company cleans and tests their equipment. The added cleaning, testing and record-keeping costs were reported to average \$282 per year. The rule has been revised based on comment so that monthly testing is no longer mandatory, but testing will be done based on a manufacturer's recommendation. This evaluation is still based on monthly testing

because the survey data was collected using that basis. In hearings, tattoo artists reported a higher frequency and all tattoo artists surveyed do testing. Electrologists reported a lower frequency of testing during the hearing. Thus the costs estimated here are probably overstated. 4% of electrologists responded that they do not test and the costs are estimated for those shops as if they would test once a month

Companies which both shift to disposable needles and shift to purchasing chemicals or spores and testing themselves or purchasing testing services will experience costs of about \$11,700 per year.

 Labor Costs: Most labor costs are already incorporated into some of the activities covered above. (ex. Cleaning and testing of equipment can be done in-house or a service can be hired.) Only the remaining labor costs are covered below.

Companies that do not require that employees wash their hands before and after handling clients and after handling nonsterile equipment will now have to do so. The average annual reported costs for hand washing was \$4400.4

- Increased administrative costs were not reported.
- Lost sales or revenue were not reported. 6% of the respondents expect that the regulation may increase the number of clients. This potential value increase was not calculated.

IV. Is the Cost Disproportionate? This rule has been reviewed and has been found to have a disproportionate impact on small businesses.

Average employment in SIC 7299 does not reflect the likely pattern of employment in the electrology and tattoo shops affected by this rule. All the companies appear to have only one proprietor. Shops with multiple workstations simply rent workstations to the staff in the shop. However, all the workstations share the sterilization mechanisms offered by the shop. If a shop were to have multiple work stations, whether or not they are employees, it would automatically have economies of scale.

A worst-case analysis with full noncompliance, for all three reported problem areas, at a small and a large firm, with average employment in the SIC, would indicate disproportionate costs given average costs of \$16,221 per year.

Worst-case analysis for SIC Code 7299.

Miscellaneous Personal Services, Not Elsewhere Classified

	Small	Large
	Business	Business
Average Employment	4.10	19.13
Average cost per employee	\$3,956	\$848

It is important to recognize that most companies already comply with the rule in response to customer concerns regarding their procedures. Most companies that did not follow a procedure were only missing one procedure. Only one respondent did not follow two procedures. Thus the costs above are explicit overestimates used to form a worst case scenario. The department extrapolated the expected costs to the 618 companies based on current reported compliance lev-

els. The total extrapolated cost of the rule to the state is \$162,000 in the first year and \$159,000 per year thereafter.

- V. What Cost Minimizing Features Were Included? The department reduced the costs of the rule by not including expensive requirements with lower potential benefits.
- A. Reducing, modifying, or eliminating substantive regulatory requirements. DOH did not include all the requirements from the US Center for Disease Control and Prevention, the Alliance of Professional Tattooists and the National Environmental Health Association. Based on cost analysis of the rule and public comment the DOH has eliminated or modified the following from the proposed rule:
- Require monthly testing of sterilization equipment
- Allowing bandages and gloves for practitioners with small sores or wounds
- Sterile walls and floors
- Daily cleaning was converted to a regular cleaning

Based on cost considerations DOH did not include the following in the proposed rule:

- · All surfaces should be hard and smooth
- Require a germicide protection barrier
- No carpet should be allowed in the building
- Require a sink and autoclave at each unit
- Require disposable razors
- Prohibit reuse of ink
- B. Simplifying, reducing, or eliminating record-keeping and reporting requirements. The record-keeping requirements were limited to three years. The department did not propose reporting requirements to evaluate compliance with sterilization standards.
- C. Reducing the frequency of inspections. No inspections are scheduled.
- D. Delaying compliance timetables. It is not feasible to delay the compliance timetable. Over 90% of the companies want this rule to be in place and expect a greater client base to evolve in response to the new rules.
- E. Reducing or modifying fine schedules for noncompliance. It is not possible to reduce or modify the fines or penalties for noncompliance because they are set in law.
- VI. How Will You Involve Small Business in the Rule Making? The DOH identified 618 possible electrology and tattoo shops. The DOH sent copies of the draft rule to all the affected businesses and other interested parties for comment and they were invited to the hearing. Staff also called sixty-one companies as part of a survey to collect cost data and feedback on the rule. All of the companies in the sample turned out to be small businesses.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 7, 2002 Mary C. Selecky Secretary

#### Chapter 246-145 WAC

#### ELECTROLOGY AND TATTOOING STANDARDS FOR STERILIZATION PROCEDURES AND INFEC-TION CONTROL

#### **NEW SECTION**

WAC 246-145-001 Purpose and scope. These rules establish standard universal precautions for preventing the spread of diseases by using sterilization procedures and infection control in the commercial practices of electrology and tattooing.

#### **NEW SECTION**

WAC 246-145-010 Definitions. For the purpose of these rules, the following words and phrases have the following meanings unless the context clearly indicates otherwise.

- (1) "Electrologist" means a person who practices the business of electrology for a fee.
- (2) "Electrology" means the process of permanently removing hair by using solid needle or probe electrode epilation, including:
- (a) Thermolysis, being of shortwave, high frequency type;
  - (b) Electrolysis, being a galvanic type; or
- (c) A combination of both which is accomplished by a superimposed or sequential blend.
- (3) "Gloves" means medical grade gloves that are FDA
- (4) "Sterilization" means a process that destroys all forms of microbial life, including highly resistant bacterial spores.
- (5) "Tattoo artist" means a person who practices the business of tattooing for a fee.
- (6) "Tattooing" means the indelible mark, figure, or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being for cosmetic or figurative purposes.

#### **NEW SECTION**

WAC 246-145-020 Standard universal precautions for preventing the spread of disease. (1) Electrologists -

The following universal precautions must be used by electrologists in the care of all clients.

- (a) Wash hands with soap and water immediately before and after each client contact;
- (b) Wash hands and other skin surfaces immediately and thoroughly if contaminated with blood or other body fluids;
- (c) Wash hands immediately before fresh, unused gloves are put on and after gloves are removed;
- (d) Clean the client's skin by applying an antiseptic or antibacterial solution prior to and following treatment;
- (e) Wear fresh, unused gloves with each client to prevent skin and mucous membrane exposure contact with blood or other body fluids of each client;
- (f) Wear gloves for touching blood and body fluids, mucous membranes, or nonintact skin of all clients, and for handling items or surfaces soiled with blood or body fluids;
  - (g) Change gloves after contact with each client;
- (h) Immediately remove gloves that are torn or have small pinholes, wash hands and put on fresh, unused gloves;
- (i) Take precautions to prevent injuries caused by needles and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures;
- (j) Prevent needlestick injuries by not recapping needles, not bending or breaking needles by hand and by not otherwise manipulating by hand;
- (k) Dispose of used disposable needles and other sharp items in puncture-resistant containers;
- (l) Inspect hands for small cuts, sores and abrasions; if present, use a Seal-skin product or bandage. If the electrologist has weeping dermatitis or draining sores, the electrologist should avoid contact with clients and equipment until the weeping dermatitis or draining sores are healed;
- (m) Regularly clean and disinfect countertops; regularly clean walls when visibly soiled; regularly vacuum and clean carpets and floors; and
- (n) Clean and disinfect other frequently touched surfaces including, but not limited to, equipment and lamps between each client.
- (2) Tattoo artists The following universal precautions must be used by tattoo artists in the care of all clients.
- (a) Wash hands with soap and water immediately before and after each client contact;
- (b) Wash hands and other skin surfaces immediately and thoroughly if contaminated with blood or other body fluids;
- (c) Wash hands immediately before fresh, unused gloves are put on and after gloves are removed;
- (d) Clean the client's skin by applying an antiseptic or antibacterial solution prior to and following treatment;
- (e) Wear fresh, unused gloves with each client to prevent skin and mucous membrane exposure contact with blood or other body fluids of each client;
- (f) Wear gloves for touching blood and body fluids, mucous membranes, or nonintact skin of all clients, and for handling items or surfaces soiled with blood or body fluids;
  - (g) Change gloves after contact with each client;
- (h) Immediately remove gloves that are torn or have small pinholes, wash hands and put on fresh, unused gloves;

- (i) Take precautions to prevent injuries caused by needles and other sharp instruments or devices during procedures, when cleaning used instruments, during disposal of used needles, and when handling sharp instruments after procedures;
- (j) Prevent needlestick injuries by not recapping needles, not bending or breaking needles by hand and by not otherwise manipulating by hand;
- (k) Dispose of used disposable needles and other sharp items in puncture-resistant containers;
- (l) Inspect hands for small cuts, sores, and abrasions; if present, use a Seal-skin product or bandage. If a tattoo artist has weeping dermatitis or draining sores, the tattoo artist should avoid contact with clients and equipment until the weeping dermatitis or draining sores are healed;
- (m) Regularly clean and disinfect countertops; regularly clean walls when visibly soiled; and regularly vacuum and clean carpets and floors;
- (n) Clean and disinfect other frequently touched surfaces such as, clip cords, pigment holders, pigment bottles, pens, equipment and lamps between each client; and
- (o) Take other measures to prevent cross contamination as included in national standards per RCW 70.54.340.

#### **NEW SECTION**

- WAC 246-145-030 Sterile procedures. (1) Electrologist To ensure that clients are not exposed to disease through needles or other instruments, electrologists must:
- (a) Use single-use, presterilized disposable needles on one client and then dispose of the needle immediately in a puncture-resistant container;
  - (b) Not use reusable needles;
- (c) Use single-use sharp items on only one client and dispose of the items immediately in a puncture-resistant container;
- (d) Only reuse cleaned and sterilized sharp items and instruments that are intended for multiple use;
- (e) Thoroughly clean and sterilize reusable sharp items and instruments between clients;
- (f) Accumulate reusable sharp items and instruments in a holding container by submersion in a solution of a proteindissolving enzyme detergent and water;
- (g) Sterilize reusable items in a steam autoclave or dryheat sterilizer, which is used, cleaned and maintained according to the manufacturer's instructions;
- (h) Resterilize a reusable sterile instrument before using it on a client, if it is contaminated by dropping, by touching an unsterile surface, by a torn package, by the package being punctured, damaged, wet or by some other means;
- (i) Immediately dispose of a single-use item in a puncture-resistant container, if it is contaminated by dropping, by touching an unsterile surface, by a torn package, by the package being punctured, damaged, wet or by some other means;
- (j) Immediately dispose of an instrument in a punctureresistant container if the expiration date has passed; and
- (k) Monitor sterilizers to determine that all conditions of sterilization are met. This includes:

- (i) Assuring that sterilizers have a thermometer and timer to indicate whether adequate heat has been applied to packaged equipment;
- (ii) Using or checking chemical indicators on each package to assure the items have been exposed to the sterilization process;
- (iii) Sterilizers must be tested by biological spore tests according to the manufacturer's instructions. In the event of a positive biological spore test, the electrologist must take immediate action to ensure all conditions of sterilization are met; and
- (iv) Documentation of monitoring must be maintained either in the form of a log reflecting dates and person(s) conducting the testing or copies of reports from an independent testing entity. The documentation must be maintained at least three years.
- (2) Tattoo artists To ensure that clients are not exposed to disease through needles or other instruments, tattoo artists must:
- (a) Use single-use, presterilized disposable needles on one client and then dispose of the needle immediately in a puncture-resistant container;
  - (b) Not use reusable needles;
- (c) Use single-use sharp items on only one client and dispose of the items immediately in a puncture-resistant container:
- (d) Only reuse cleaned and sterilized sharp items and instruments that are intended for multiple use;
- (e) Thoroughly clean and sterilize reusable sharp items and instruments between clients;
- (f) Accumulate reusable sharp items and instruments in a holding container by submersion in a solution of a proteindissolving enzyme detergent and water;
- (g) Sterilize reusable items in a steam autoclave or dryheat sterilizer, which is used, cleaned and maintained according to the manufacturer's instructions;
- (h) Resterilize a reusable sterile instrument before using it on a client, if it is contaminated by dropping, by touching an unsterile surface, by a torn package, by the package being punctured, damaged, wet or by some other means;
- (i) Immediately dispose of a single-use item in a puncture-resistant container, if it is contaminated by dropping, by touching an unsterile surface, by a torn package, by the package being punctured, damaged, wet or by some other means;
- (j) Immediately dispose of an instrument in a punctureresistant container if the expiration date has passed; and
- (k) Monitor sterilizers to determine that all conditions of sterilization are met. This includes:
- (i) Assuring that sterilizers have a thermometer and timer to indicate whether adequate heat has been applied to packaged equipment;
- (ii) Using or checking chemical indicators on each package to assure the items have been exposed to the sterilization process:
- (iii) Sterilizers must be tested by biological spore tests according to the manufacturer's instructions. In the event of a positive biological spore test, the tattoo artist must take immediate action to ensure all conditions of sterilization are met; and

(iv) Documentation of monitoring must be maintained either in the form of a log reflecting dates and person(s) conducting the testing or copies of reports from an independent testing entity. The documentation must be maintained at least three years.

#### **NEW SECTION**

WAC 246-145-040 Penalty for not complying with rules. Any electrologist or tattoo artist out of compliance with the rules in this chapter will be guilty of a misdemeanor.

# WSR 02-11-130 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
[Filed May 21, 2002, 11:27 a.m., effective July 1, 2002]

Date of Adoption: May 15, 2002.

Purpose: The division of employment and assistance programs is amending this rule to reduce the program cost of support services. The changes will increase the efficiency of support services while maintaining program integrity. The tools and license allowance in [is] no longer per request but only available once a program year. A new category, transportation allotment, is being added giving set amounts of transportation support per month. If a client gets diversion cash assistance prior to the second payment of the early exit bonus, it disqualifies the client from receiving the second \$500 payment.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0800.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 78.08A.340, and 99-14-043.

Adopted under notice filed as WSR 02-07-112 on March 20, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: July 1, 2002.

May 15, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit AMENDATORY SECTION (Amending WSR 01-17-053, filed 8/13/01, effective 9/1/01)

#### WAC 388-310-0800 WorkFirst—Support services.

#### (1) Who can get support services?

People who can get support services include:

- (a) WorkFirst participants who receive a TANF cash grant;
- (b) Sanctioned WorkFirst participants during the twoweek participation before the sanction is lifted;
- (c) Unmarried or pregnant minors who are income eligible to receive TANF and are:
- (i) Living in a department approved living arrangement (WAC 388-486-0005) and are meeting the school requirements (WAC 388-486-0010); or
- (ii) Are actively working with a social worker and need support services to remove the barriers that are preventing them from living in a department approved living arrangements and/or meeting the school requirements.
- (d) Former WorkFirst recipients who are working at least twenty hours or more per week for up to one year after leaving TANF if they need support services to meet a temporary emergency. This can include up to four weeks of support services if they lose a job and are looking for another one (see also WAC 388-310-1800); or
- (e) American Indians who receive a TANF cash grant and have identified specific needs due to location or employment.

#### (2) Why do I receive support services?

Although not an entitlement, you may receive support services for the following reasons:

- (a) To help you participate in work and WorkFirst activities that lead to independence.
- (b) To help you to participate in job search, accept a job, keep working, advance in your job and/or increase your wages.
- (c) You can also get help in paying your child care expenses through the working connections child care assistance program. (Chapter 388-290 WAC describes the rules for this child care assistance program.)

### (3) What type of support services may I receive and what limits apply?

There is a limit of three thousand dollars per person per program year (July 1st to June 30th) for WorkFirst support services you may receive. Most types of support services have dollar limits.

The chart below shows the types of support services that are available for the different activities (as indicated by an "x") and the limits that apply.

Definitions:

- Work-related activities include looking for work or participating in workplace activities, such as community jobs or a work experience position.
- •• Safety-related activities include meeting significant or emergency family safety needs, such as dealing with family violence. When approved, safety-related support services can exceed the dollar or category limits listed below.
- ••• Some support services are available if you need them for other required activities in your IRP.

(2) why do I receive support services?	Tor other required activities	,		1
Type of support service	Limit	• Work	•• Safety	Other
Reasonable accommodation for employment	\$1,000 for each request	X	Salety	Other
Clothing/uniforms	\$200 per adult per program year	X		
Diapers	\$50 per child per month	х		
((Employer reimbursement))	((Reimburse 50 percent of employer costs during on the job training))	((*))		
Haircut	\$40 per each request	х		
Lunch	Same rate as established by OFM for state employees	х		
Personal hygiene	\$50 per adult per program year	х		
Professional, trade, association, union and bonds	\$300 for each fee	х		
Relocation related to employment (can include rent, housing, and deposits)	\$1,000 per program year	х		
Short-term lodging and meals in connection with job interviews/tests	Same rate as established by OFM for state employees	х		
Tools/equipment	\$500 ((for-each request)) per program year	х	•	
Car repair needed to restore car to operable condition	\$500 per program year	х	х	
License/fees/liability insurance	\$600 per ((each license, fee or liability insurance request per)) program year	х	х	
Mileage, transportation, and/or public transportation	Same rate as established by OFM for state employees	х	х	
<u>Transportation allotment</u>	Up to: \$10 for immediate need, or \$20 twice a month if you live within 40 miles of your local WorkFirst office, or \$30 twice a month if you live more than 40 miles from your local WorkFirst office.	X	X	
Counseling	No limit	х	х	х

		•	••	•••
Type of support service	Limit	Work	Safety	Other
Educational expenses	\$300 for each request if it is an approved activity in your IRP and you do not qualify for sufficient student financial aid to meet the cost	x		x
Medical exams (not covered by Medicaid)	\$150 per exam	х	х	х
Public transportation	\$150 per month	x	х	х
Testing-diagnostic	\$200 each	х	x	х

## (4) What are the other requirements to receive support services?

Other restrictions on receiving support services are determined by the department or its agents. They will decide what support services you receive, as follows:

- (a) It is within available funds; and
- (b) It does not assist, promote, or deter religious activity; and
  - (c) There is no other way to meet the cost.
  - (5) What is a transitional work expense?
- (a) A transitional work expense is a special type of support services that is only paid once in a lifetime. It is authorized in two payments of five hundred dollars to cover your work expenses and help you exit TANF sooner and stay off of assistance longer. The first payment is made in the month after your TANF grant closes if you can show you have a plan for staying employed and off of TANF. ((The second payment is paid if you are still employed and off of TANF three months later.))
- (b) To qualify for the first transitional work expense payment of five hundred dollars, you must also meet the following conditions:
  - (i) You are in unsubsidized employment; or
- (ii) You are in subsidized employment that does not use TANF funds or does not end with your TANF grant; and
- (iii) You are in the assistance unit and getting a TANF/SFA grant of one hundred dollars or less a month; and
- (iv) Neither you or anyone else in your assistance unit is in sanction status; and
  - (v) You voluntarily stop getting your TANF/SFA grant.
- (c) To qualify for the second payment of five hundred dollars you must meet the following conditions:
- (i) Have not received a TANF/SFA grant or diversion cash assistance (DCA) for three months after you stopped your TANF/SFA grant; and
  - (ii) Are still employed.
- (6) What happens to my support services if I do not participate as required?

The department will give you ten days notice, following the rules in WAC 388-310-1600, then discontinue your support services until you participate as required.

# WSR 02-11-136 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration) [Filed May 21, 2002, 3:37 p.m.]

Date of Adoption: May 20, 2002.

Purpose: The access to baby and child dentistry (ABCD) program was originally a demonstration project in limited areas; the department is implementing this program in targeted areas statewide. The current WAC 388-535-1300 is repealed and the rule for this program is renumbered as new WAC 388-535-1245 to fit with the department's reorganization of this chapter.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-535-1300 Access to baby and child dentistry (ABCD) program.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.035, 74.09.500, 42 U.S.C. 1396d(a), 42 C.F.R. 440.100 and .225.

Adopted under notice filed as WSR 02-07-113 on March 20, 2002.

Changes Other than Editing from Proposed to Adopted Version: At WAC 388-535-1245 (2)(c), deleted "Training in correct office behavior, including..." and replaced with, "Expectations of the client and family, including the importance of..."

At WAC 388-535-1245 (5)(b), deleted "Teeth cleaning training" and replaced with, "Oral health instruction/training;"

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

May 20, 2002

Brian H. Lindgren, Manager Rules and Policies Assistance Unit

#### ABCD DENTAL PROGRAM

#### **NEW SECTION**

WAC 388-535-1245 Access to baby and child dentistry (ABCD) program. The access to baby and child dentistry (ABCD) program is a program established to increase access to dental services in targeted areas for Medicaid-eligible infants, toddlers, and preschoolers. Public and private sectors cooperate to administer the program.

- (1) Client eligibility for the ABCD program is as follows:
- (a) Clients must be five years of age or younger and reside in targeted areas selected by the medical assistance administration (MAA). Once enrolled in the ABCD program, an eligible client is covered until reaching age six.
- (b) Eligible clients enrolled in a managed care plan are eligible for the ABCD program under fee-for-service.
- (c) Eligible clients enrolled in the following medical assistance programs are eligible for the ABCD program:
  - (i) Categorically needy (CN or CNP);
- (ii) Limited casualty program/medically needy program (LCP/MNP); and
  - (iii) Children's health.
- (2) Health care providers and community service programs in the targeted areas identify and refer eligible clients to the ABCD program. If enrolled, the client and family may receive:
  - (a) An ABCD program identification card;
  - (b) Oral health information;
- (c) Expectations of the client and family, including the importance of keeping appointments:
- (d) Assistance with obstacles to care, such as lack of transportation; and
- (e) Case management services, for families who do not cooperate with the training(s) in this subsection.
- (3) Families who do not cooperate with the training(s) in subsection (2) of this section may be disqualified from the ABCD program. The client remains eligible for MAA dental coverage as described in this chapter.
- (4) The University of Washington School of Pediatric Dentistry's continuing education program certifies dental providers to furnish ABCD program services.
- (5) MAA pays enhanced fees to ABCD-certified participating providers for furnishing ABCD program services. In addition to services provided under MAA's dental care program, the ABCD program provides family oral health education, which is allowed twice per year, per family, and must include:
  - (a) Risk assessment;
  - (b) Oral health instruction/training;
  - (c) Dietary counseling;
  - (d) Fluoride supplements, if appropriate; and
  - (e) Documentation in the client's file.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-535-1300

Access to baby and child dentistry (ABCD) program.

# WSR 02-11-137 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
[Filed May 21, 2002, 3:38 p.m., effective July 1, 2002]

Date of Adoption: May 20, 2002.

Purpose: The division of employment and assistance programs is amending rules in chapter 388-406 WAC to incorporate alternative methods of filing an application, electronic signatures, and to rewrite rules for clarity. The department is repealing WAC 388-406-0025 as some sections are obsolete, and are incorporating portions of WAC 388-406-0025 into other sections of chapter 388-406 WAC. The department is also adopting new WAC 388-406-0012 to address when an application is filed.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-406-0025; and amending WAC 388-406-0005, 388-406-0010, 388-406-0030, and 388-406-0035.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Adopted under notice filed as WSR 02-08-059 on April 1, 2002.

Changes Other than Editing from Proposed to Adopted Version: At WAC 388-406-0010(5), replaced the words "fax" and "forward" with "send."

At WAC 388-406-0012, changed the phrase in the second sentence from "appropriate field office" to "any field office."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 3, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 4, Repealed 1.

Effective Date of Rule: July 1, 2002.

May 20, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

- WAC 388-406-0005 ((Who may)) Can I apply((1)) for cash, medical, or food assistance? ((Any person may file an application for)) (1) You can apply for any program benefit the department offers, including cash, medical, or food assistance.
- (((1) For food assistance, applications may be made by a responsible household member or an authorized representative.))
- (2) ((For-medical and cash assistance, an application may be made by:
- (a) Persons applying on their own behalf or on behalf of their dependents;
- (b) A legal guardian or caretaker applying on behalf of a minor or incompetent person; or
- (c) Any other person acting on behalf of the applicant when application cannot be made under one of the preceding methods. For each assistance the person must indicate the reason the applicant is not able to apply on his or her own behalf.
- (3) For GA. U and medical programs, a Washington state resident who is temporarily living out of the state may apply through a person or agency acting on the client's behalf)) You must meet certain eligibility requirements in order to receive a program benefit.
  - (3) You can apply for someone else if you are:
- (a) A legal guardian, caretaker, or authorized representative applying on behalf of a dependent child, an incapacitated person, or someone who is deceased; or
- (b) Acting on behalf of the applicant when the applicant can not apply for some other reason. We may ask why the applicant is unable to apply on their own behalf.
- (4) You do not need to apply for medical benefits if you get Supplemental Security Income (SSI) as we automatically open medical benefits for you.
- (5) A person or agency may apply for GAU or medical assistance on your behalf if:
  - (a) You are temporarily living out of state; and
  - (b) You are a Washington state resident.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

- WAC 388-406-0010 ((Filing an application.)) How do I apply for benefits? (1) ((A person may file an application by submitting a written request for benefits using a form designated by the department, to the applicant's local community service office (CSO) in person or by mail.
- (a) A person may file an application on the same day that benefits are requested when the request is made in the applicant's local CSO during regular business hours.
- (b) A household applying for food, medical and/or eash assistance may do so by submitting a single request for benefits:
- (c) For food assistance, a household consisting only of elients applying for or receiving Supplemental Security Income (SSI) may file an application at the local Social Security Administration District Office (SSADO).

- (d) Clients who receive SSI or who are otherwise determined eligible for Medicaid by the Social Security Administration will be authorized medical assistance without being required to file a separate application with the department.
- (2) The request for benefits form-must be as brief as administratively possible and seek information ordinarily known to the applicant, including:
  - (a) The name and address of the applicant;
- (b) The type of assistance-requested (i.e., food, medical and/or cash assistance);
  - (c) For medical and cash assistance:
  - (i) The applicant's telephone number, if known; and
- (ii) The names, birthdates and social security numbers, if known, of all persons for whom assistance is requested; and
- (d) For TANF and SFA, the names, birthdates and social security numbers, if known, of:
- (i) All children under the age of nineteen who are living in the home and who are siblings of any child for whom assistance is being requested; and
- (ii) All parents, if living in the home, of any child for whom assistance is requested.
- (e) An application is required for a medically needy program client who requests eligibility beyond the certification period.
- (3) To initiate an application, the filed request for benefits form must include:
  - (a) The name and address of the applicant; and
- (b) The signature of the applicant or the applicant's representative)) You can apply for cash, food, or medical assistance by giving us an application form in person, by mail, by fax, or by completing an online application.
- (2) If your entire household gets or is applying for Supplemental Security Income (SSI), then your household can file an application for food assistance at the local Social Security Administration District Office (SSADO).
- (3) A legal guardian, caretaker, or authorized representative can apply for a dependent child or incapacitated person or someone unable to apply on their own behalf for some other reason.
- (4) You can apply for cash, food, and medical assistance with just one application form.
- (5) If you apply for benefits at a local office, we accept your application on the same day you come in. If you apply at the wrong office, we send your application to the appropriate office no later than the next business day so that office receives your application on the same day we send it.
- (6) We accept your application for benefits if it has at least:
- (a) For cash or medical assistance, the name, address, and signatures of the responsible adult household members or person applying on your behalf. A minor child may sign if there is no adult in the household. Signatures must be either handwritten, electronic or digital as defined by the department, or a mark if witnessed by another person; or
- (b) For food assistance, the name, address, and signature of a responsible household member or person applying on your behalf.
- (7) As a part of the application process, you may be required to:

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- (a) Complete an interview if one is required under WAC 388-452-0005;
- (b) Give us the information we need to decide if you are eligible as required under WAC 388-406-0030; and
- (c) Give us proof of information as required under WAC 388-490-0005 so we can determine if you are eligible.
- (8) If you are eligible for necessary supplemental accommodation (NSA) services under chapter 388-472 WAC, we help you comply with the requirements of this section.

#### **NEW SECTION**

- WAC 388-406-0012 What is the date of my application and how does it affect my benefits? The date of your application affects when your benefits start. The date of your application is the date any field office receives your application unless:
- (1) Your entire household gets or applies for Supplemental Security Income (SSI) and requests food assistance at the local Social Security office, then the date of application is the date Social Security gets your application; or
- (2) You apply outside of normal business hours, including online, dropped off, or by fax, then the date of your application is the next business day.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

- WAC 388-406-0030 ((Requests for additional)) Do I need to submit other information((+)) after I apply for benefits? ((An applicant is allowed at least ten calendar days to provide additional information required by the department to determine eligibility. This information will be requested in writing and may include supplemental forms and documents or statements verifying the applicant's circumstances as specified in chapter 388-490 WAC. The applicant is allowed additional time to provide requested information when:
- (1) The applicant has requested, orally or in writing, additional time to provide the information; or
- (2) The department determines the need for different or additional information following the initial interview or after having requested specific information. In these situations, the applicant will be:
- (a)-Provided with a written request for the additional information; and
- (b) Allowed at least ten calendar days to provide the information.
- (3) When the applicant for medical and cash assistance has not provided all of the requested information, the applicant will be:
- (a) Provided with a written request for information still needed to determine eligibility; and
- (b) Allowed at least ten calendar days to provide the information.
- (4) All applicants who are assessed as needing NSA services will be assisted in complying with the requirements of this section as required under-WAC 388-200-1300)) (1) When we get your application for benefits, we decide if other

- information is needed to determine your eligibility for benefits. If so, we give you:
- (a) A written request for what is needed and for proof if required under WAC 388-490-0005; and
  - (b) At least ten calendar days to give us the information.
- (2) If you ask orally or in writing for additional time to give us requested information, then we give you at least ten additional calendar days.
- (3) If you give us some of the information we requested, we give you:
- (a) A written request for what is needed to determine eligibility; and
- (b) At least ten additional calendar days to give us the information.
- (4) If you are eligible for necessary supplemental accommodation (NSA) services under chapter 388-472 WAC, we help you comply with the requirements of this section.

AMENDATORY SECTION (Amending WSR 99-16-024, filed 7/26/99, effective 9/1/99)

WAC 388-406-0035 ((Time limits for processing applications.)) How long does the department have to process my application? (1) ((The)) We must process your application ((process as defined in WAC 388-406-0050(1) must be completed)) as quickly as possible. We must respond promptly to your application and to any information you give us. We can not delay processing your request by using the time limits ((specified)) stated in this section ((cannot be used)) as a waiting period for determining eligibility.

- (2) ((When applying the time limits specified in this section, day one is the date following the date:
- (a) A request for benefits form is received by the department as specified under WAC 388-406-0010;
- (b) A household-consisting-solely of persons eligible for SSI-files a food assistance application at the SSADO; or
- (e) An SSI-recipient applying for food assistance is released from a public institution when the person filed an application with the SSADO before release.
- (3) Time limits are in calendar days unless otherwise specified. Time limits for application process completion are no more than:
- (a) Thirty days for TANF, SFA, RCA, consolidated emergency assistance program (CEAP), diversion cash assistance (DCA), and food assistance;
- (b) Forty-five days for general assistance and alcohol and drug abuse treatment and shelter assistance (ADATSA); and
- (c) Medical program benefits must be processed no more than:
  - (i) Sixty days when a disability decision is required;
  - (ii) Fifteen working-days for pregnant women; and
- (iii) Forty-five days for all other categories)) <u>Unless your application is delayed under WAC 388-406-0040</u>, we process your application for benefits within thirty calendar days, except:
- (a) If you are pregnant, your medical must be processed within fifteen working days;

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- (b) General assistance (GAU), alcohol or drug addiction treatment (ADATSA), or medical assistance must take no more than forty-five calendar days; and
- (c) Medical assistance requiring a disability decision must take no more than sixty calendar days.
- (3) For calculating time limits, "day one" is the date following the date:
- (a) An application for benefits is received by the department as specified under WAC 388-406-0010;
- (b) Social Security gets a request for food assistance from a household in which all members either get or are applying for Supplemental Security Income (SSI);
- (c) You are released from an institution if you get or are authorized to get SSI and request food assistance through Social Security prior to your release.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-406-0025

Applicant to provide information needed to determine eligibility.

# WSR 02-11-141 PERMANENT RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed May 22, 2002, 8:52 a.m., effective October 1, 2002]

Date of Adoption: May 22, 2002.

Purpose: Emergency response to hazardous substance release, chapter 296-824 WAC; and Emergency response to hazardous substance release, Part U-4, chapter 296-307 WAC.

The emergency response rule has been rewritten and reorganized for clarity and ease of use for employers and employees. The emergency response rule will be repealed from chapter 296-62 WAC and published as chapter 296-824 WAC. Two provisions of the rule have been revised as a result of a "not-at-least-as-effective-as" (NALAEA) OSHA determination. At the same time, those portions of the emergency response rule applicable to agricultural employers are being added as Part U-4 of chapter 296-307 WAC. This supports the one book requirement for agriculture safety and health rules. References to emergency response, contained in chapters 296-67 and 296-305 WAC have been updated, as appropriate.

Citation of Existing Rules Affected by this Order: Repealing Part R - Emergency Response to Hazardous Substance Release, WAC 296-62-410 Emergency response to hazardous substance release, 296-62-41001 Scope and application, 296-62-41003 Definitions, 296-62-41010 Emergency response, 296-62-41011 Emergency response plan, 296-62-41013 Elements of an emergency response plan, 296-62-41015 Procedures for handling emergency response, 296-62-41017 Skilled support personnel, 296-62-41019 Special-

ist employees, 296-62-41020 Training, 296-62-41021 Training before participation, 296-62-41023 Trainers, 296-62-41025 Refresher training, 296-62-41030 Employee personal protective equipment, 296-62-41031 Personal protective equipment selection, 296-62-41033 Totally encapsulating chemical protective suits, 296-62-41035 Personal protective equipment (PPE) program, 296-62-41040 Medical surveillance and consultation for emergency response, 296-62-41041 Employees covered, 296-62-41042 Frequency of medical examination and consultations, 296-62-41043 Content of medical examinations and consultations, 296-62-41044 Examination by a physician and costs, 296-62-41045 Information provided to the physician, 296-62-41046 Physician's written opinion, 296-62-41047 Recordkeeping of medical surveillance activities, 296-62-41060 Post emergency response operations, 296-62-41061 Removal of hazardous substances, 296-62-41063 Employee training and protective equipment, 296-62-41080 Appendices to Part R-Emergency response, 296-62-41081 Appendix A-Personal protective equipment test methods, 296-62-41082 Appendix B-General description and discussion of the levels of protection and protective gear, 296-62-41084 Appendix C-Compliance guidelines, 296-62-41085 Appendix D-References, and 296-62-41086 Appendix E-Training curriculum guidelines.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Adopted under notice filed as WSR 02-02-082 on January 16, 2002 [December 31, 2001].

Changes Other than Editing from Proposed to Adopted Version: Tables have been expanded and definitions have been added to the rule. Additionally, housekeeping, typographical, and formatting changes have been made to enhance clarity. The changes did not increase requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 32, Amended 2, Repealed 34.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 32, Amended 2, Repealed 34.

Effective Date of Rule: October 1, 2002.

May 22, 2002 Gary Moore Director

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#### Chapter 296-824 WAC

#### **EMERGENCY RESPONSE**

#### **NEW SECTION**

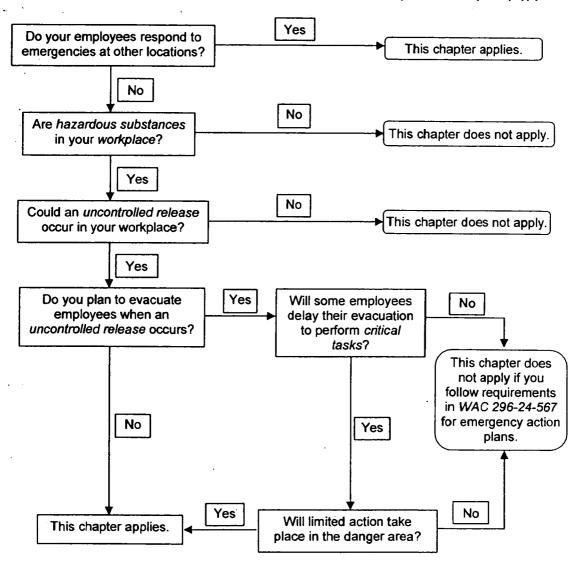
WAC 296-824-100 Scope. What is the purpose of chapter 296-824 WAC, Emergency response to hazardous substance releases?

To state the minimum requirements that help you protect the safety and health of your employees during a response to a hazardous substance releases in your workplace or any other location.

#### Does this chapter apply to your workplace?

This chapter applies if your employees are, or could become, involved in responding to uncontrolled releases of hazardous substances in your workplace or any other location. Use the scope flow chart, and definitions that follow, to determine if this chapter applies to your workplace(s). Defined words are italicized in the flow chart.

- EXEMPTION: This chapter does not apply to you if your workplace is a hazardous waste site. If you are not sure about your site classification, see chapter 296-62 WAC, Part P, Hazardous waste operations and treatment, storage, and disposal facilities.
  - · If your workplace is a treatment, storage, and disposal site this chapter may apply.



- \*The flow chart references other chapters applicable to your workplace depending on conditions and hazards. Examples include:
  - WAC 296-800-140, Accident prevention program
- WAC 296-800-160, Personal protective equipment (PPE)
- WAC 296-800-170, Employer chemical hazard communication
- WAC 296-62-400, Hazardous chemicals in laboratories
  - WAC 296-62-071, Respiratory protection
- WAC 296-24-567, Employee emergency plans and fire prevention plans

## Definitions applicable to the flow chart. (See WAC 296-824-15010 for additional definitions used in the chapter):

#### Danger area

Areas where conditions pose a serious danger to employees, such as areas where:

• Immediately dangerous to life or health (IDLH) conditions could exist

#### OR

- High levels of exposure to toxic substances could exist **OR**
- There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a substance.

#### Emergency response

A response to an anticipated release of a hazardous substance that is, or could become, an *uncontrolled release*.

#### Hazardous substance

Any biological, radiological, or chemical substance that can have adverse effects on humans. (See WAC 296-824-15010 for a more specific definition.)

#### Immediately dangerous to life or health (IDLH)

Any atmospheric condition that would:

- · Cause an immediate threat to life
- Cause permanent or delayed adverse health effects
- Interfere with an employee's ability to escape

#### Incidental release

A release that can be safely controlled at the time of the release and does not have the potential to become an *uncontrolled release*.

Example of a situation that results in an incidental release:

A tanker truck is receiving a load of hazardous liquid when a leak occurs. The driver knows the only hazard from the liquid is minor skin irritation. The employer has trained the driver on procedures and provided equipment to use for a release of this quantity. The driver puts on skin protection and stops the leak. A spill kit is used to contain, absorb, and pick up the spilled material for disposal.

#### Limited action

Action necessary to:

• Secure an operation during emergency responses,

#### OR

• Prevent an incident from increasing in severity.

Examples include shutting down processes and closing emergency valves.

#### Release

A spill, leak, or other type of hazardous substance discharge.

#### Uncontrolled release

A release where significant safety and health risks could be created. Releases of hazardous substances that are either incidental or could not create a safety or health hazard (i.e., fire, explosion or chemical exposure) are not considered to be uncontrolled releases. Examples of conditions that could create a significant safety and health risk:

- Large-quantity releases
- Small-releases that could be highly toxic
- Potentially contaminated individuals arriving at hospitals
- Airborne exposures that could exceed a WISHA permissible exposure limit or a published exposure limit and employees are not adequately trained or equipped to control the release.

#### Example of an uncontrolled release:

A forklift driver knocks over a container of a solvent-based liquid, releasing the contents onto the warehouse floor. The driver has been trained to recognize the vapor is flammable and moderately toxic when inhaled. The driver has not been trained or provided appropriate equipment to address this type of spill. In this situation, it is not safe for the driver to attempt a response. The driver needs to notify someone of the release so an emergency response can be initiated.

#### Workplace

· A fixed facility

#### OI

- A temporary location (such as a traffic corridor)
- Locations where employees respond to emergencies.

#### **NEW SECTION**

#### WAC 296-824-110 Summary.

#### Your responsibility:

To anticipate, plan for, and manage emergency response operations so employees are protected from hazardous substances and conditions.

Note:

Other chapters may apply to your workplace, such as:

- Chapter 296-800 WAC, Safety and health core rules
- Chapter 296-62 WAC, General occupational health standards
- Chapter 296-24 WAC, General safety and health standards
- Chapter 296-155 WAC, Safety standards for construction work

You will find some safety and health requirements (for example, personal protective equipment) are addressed on a general level in the core rules, while being addressed for a specific application in this rule. When this happens, both requirements apply and should not conflict.

If you are uncertain which requirements to follow, you must comply with the more protective requirement. Contact your local L&I office if you need assistance in making this determination.

#### You must:

#### Planning

Develop an emergency response plan WAC 296-824-11010

#### Training

Train your employees WAC 296-824-11020

#### Medical surveillance

Provide medical surveillance to employees

WAC 296-824-11050

Keep records

WAC 296-824-11060

#### **Incident requirements**

Recognize emergencies and initiate a response

WAC 296-824-12010

Implement and maintain an incident command system

WAC 296-824-12020

Prepare skilled support personnel

WAC 296-824-12030

Make sure the incident commander oversees activities during the response

WAC 296-824-12040

Use the buddy system in danger areas

WAC 296-824-12050

Provide rescue and medical assistance

WAC 296-824-12060

#### Personal protective equipment (PPE)

Use appropriate PPE

WAC 296-824-13010

Control hazards created by PPE

WAC 296-824-13020

Use PPE properly

WAC 296-824-13030

#### Postemergency response

WAC 296-824-14010

**Definitions** 

WAC 296-824-15010.

#### **NEW SECTION**

## WAC 296-824-11010 Planning. Develop an emergency response plan.

Note:

- You may already have an emergency response plan, such as required by chapter 296-62 WAC, Part P, Hazardous waste operations and treatment, storage and disposal facilities or by state and locally coordinated response efforts (Section 303 of Superfund Amendments and Reauthorization Act (SARA), Title III). You may use those plans to comply with this section, if they include the items listed below.
- Before a written emergency response plan can be developed, you will need to anticipate the types of uncontrolled releases that employees could encounter in your workplace(s).

#### You must:

- (1) Make sure your plan is written and adequately addresses, as a minimum, all of the following:
- Preemergency planning and coordination with additional responders (including personnel from other employers such as: Fire departments, law enforcement agencies, emergency medical services, and state or federal agencies).
- Personnel roles, (See Table 1) and lines of authority and communications for all affected parties including responders
- Employee training (see WAC 296-824-11020 for more detail):

Note:

• Responders' level of training depends on the duties or roles the employer assigns.

- Training for the employees' role should address the competencies specified in Tables 3 through 6.
- Training on specific substances may be appropriate depending on the number and characteristics of hazardous substances expected to be encountered. For example, if employees may only respond to one substance, you could provide training (covering the knowledge and skills specified in Tables 3 through 6) on that single substance. If employees might respond to a range of hazardous substances, training may be required to cover categories of hazardous substances.
- Videos and automated training methods (for example: Interactive computer-based programs) may be used in training; however, instructors must be readily available to:
- Encourage and provide responses to questions for the benefit of the group.
- Evaluate employee understanding of the material.
- Provide other instructional interaction to the group.
- Emergency recognition
- Immediate emergency procedures including:
- Methods of alerting employees (see WAC 296-800-310, exit routes and employee alarm systems) and outside responders
  - Procedures for limited action (emergency prevention)

No

Limited action includes shutting down processes, closing emergency valves and other critical actions to secure the operation, or prevent the incident from increasing in severity.

Limited Action and Employee Roles		
If Then employees involved would be:		
Limited action could be conducted in the danger area	Considered emergency responders	
Limited action will not be conducted in the danger area	Considered evacuees, not emergency responders	

- Details of who will evacuate immediately and who will remain behind for limited action
  - Evacuation routes and procedures
- How to establish safe distances and places of refuge (for example, during emergency response the incident commander (IC) decides to make changes based on new developments, i.e., changes in the wind direction).
  - Methods of securing and controlling access to the site
  - · Emergency medical treatment and first aid
- A complete personal protective equipment (PPE) program that addresses:
- Selection of PPE including selection criteria to be used and the identification, specified use and limitations of the PPE selected.
- Training on proper use of PPE (including maintenance). Hazards created by wearing PPE including heat stress during temperature extremes, and/or other appropriate medical considerations.
  - Criteria used for determining the proper fit of PPE.
- Procedures covering proper use of PPE including procedures for inspection, putting it on (donning) and removing it (doffing).
- Maintenance of PPE including procedures for decontamination, disposal and storage.

- Methods used to evaluate the effectiveness of your PPE program.

Note:

- If a manufacturer's printed information or WISHA rule adequately addresses procedural requirements (such as donning or doffing for PPE), it is not necessary to rewrite this into your program; simply attach the printed informa-
- · You may use written procedures provided by the equipment manufacturer when they meet the requirements of other chapters, including chapter 296-62 WAC, Part E, Respiratory protection.
- Emergency equipment

- · Decontamination procedures determined by a hazardous materials specialist or other qualified individual
- · Methods to critically assess the response and conduct appropriate follow-up

#### You must:

(2) Make your written emergency response plan available to employees, their representatives, and WISHA personnel for inspecting or copying.

In situations where multiple employers could respond to an incident, all plans should consistently address:

- Who will be designated as the incident commander (IC)
- If, when, and how transfer of the incident commander (IC)

• Emergency response proc	edures position will take place.
	Table 1
	Roles and Duties of Emergency Responders
If the employee's role is:	Then all of the following apply. They:
First responder at the awareness level	Are likely to witness or discover a hazardous substance release
	Are trained to initiate an emergency response by notifying the proper authorities of the release
	Take no further action beyond notifying the authorities
First responder at the operations level	Respond to actual or potential releases in order to protect nearby persons, property, and/or the environment from the effects of the release
	Are trained to respond defensively, without trying to stop the release.
	May try to:
<i>y</i>	- Confine the release from a safe distance
	- Keep it from spreading
<u>-</u>	- Protect others from hazardous exposures
Hazardous materials technician	Respond to releases or potential releases, with the intent of stopping the release
	Are trained to approach the point of release offensively in order to, either:
	- Plug
	- Patch
	- Stop the release using other methods
Hazardous materials specialist	Respond along with, and provide support to, hazardous materials technicians
•	Are required to have more specific knowledge of hazardous substances than a hazardous materials technician
	Act as the site activity liaison when federal, state, local, and other government authorities participate
Incident commander	Have ultimate responsibility for:
	- Direction
	- Control
	- Coordination of the response effort
	- Will assume control of the incident beyond the first responder awareness level
Specialist employee	Are a technical, medical; environmental, or other type of expert
- L	May represent a hazardous substance manufacturer, shipper, or a government agency
	May be present at the scene or may assist from an off-site location
	Regularly work with specific hazardous substances
	Are trained in the hazards of specific substances
	- Are trained in the hazards of specific substances

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Table 1			
	Roles and Duties of Emergency Responders		
If the employee's role is:	If the employee's role is: Then all of the following apply. They:		
	<ul> <li>Are expected to give technical advice or assistance to the incident commander or incident safety officer, when requested</li> </ul>		
Skilled support personnel	Are needed to perform an immediate, specific emergency support task at the site		
	Are skilled in the operation of equipment including:		
	- Earth moving equipment		
	- Cranes		
•	<ul> <li>Hoisting equipment</li> </ul>		
Incident safety officer	Are designated by the incident commander		
	Are knowledgeable in operations being implemented at the site		
	Have specific responsibility to:		
	- Identify and evaluate hazards		
	- Provide direction on employee safety matters		

#### WAC 296-824-11020 Training.

Train your employees

Note:

- Use Tables 3 through 6 to identify your employees' training competencies.
- You may conduct training internally, or use outside training services to comply with this section.
- When outside trainers are hired, you are still responsible for making sure the requirements of this section are met. For example, employers may compare the course outline to the competencies listed in Tables 3, 4 and 5.

#### You must:

• Make sure employees are appropriately trained for their assigned roles and duties as follows:

EXEMPTION: Skilled support employees are not covered by the training requirements in this section. (See WAC 296-

824-12030.)

#### - Initial training:

• Provide initial training before the employee is allowed to participate in an actual emergency response operation.

Note:

When first responders at the awareness or operations level have sufficient experience to objectively demonstrate competencies specified in Table 3, you may accept experience instead of training.

- Make sure initial training adequately addresses the competencies in Tables 3 through 6 and the minimum training durations in Table 2.
- Certify that employees objectively demonstrate competencies specified in Tables 3, 4 and 5 (except for employees trained as first responders at the awareness level).

#### - Retraining (refresher) training:

- Provide retraining annually
- Make sure retraining covers necessary content
- Document training or demonstrated competency

Note: Retraining is not required when employees demonstrate competencies annually and a record is kept of the demonstration methodology used.

#### - Trainer qualifications:

• Verify trainers have satisfactorily completed an instructors' training course for the subjects they teach. For example, courses offered by the United States National Academy, or equivalent courses are acceptable.

#### OR

• Have the educational and instructional experience necessary for training.

#### - Specialist employees:

• Specialist employees who have been sent to the scene to advise or assist must receive training or demonstrate competency in their specialty, annually.

Table 2 Minimum Training Durations for All Responders		
If you are a: Then:		
First responder at the awareness level	Training duration needs to be sufficient to provide the required competencies	
First responder at the operations level	You need a minimum of 8 hours training (see Table 3)	
Hazardous materials technician	You need a minimum of 24 hours training (see Table 4)	
Hazardous materials specialist	You need a minimum of 24 hours training (see Table 4)	
Incident commander	You need a minimum of 24 hours training (see Table 5)	

Table 3		
Competencies for First Responders at the Award	eness Level and Opera	tions Level
Employees must be able to show they:	When they are designated as First Responders at the	
	Awareness Level	Operations Level
Understand what hazardous substances are and their associated risks.	X	X
Recognize the presence of hazardous substances in an emergency.	X	X
Can identify the hazardous substances, when possible.	X	X
Understand the potential consequences of hazardous substances in an emergency.	X	X
Understand the role of a first responder at the awareness level as described in:  • The employer's emergency response plan, including site security and control.  • The United States Department of Transportation's Emergency	X	X
Response Guidebook. (search at: http://www.dot.gov).		
Can use The United States Department of Transportation's Emergency Response Guidebook.	X	X
Recognize the need for additional resources and the need to notify the incident's communication center accordingly.	X	Х
Know basic hazard and risk assessment techniques.	*:	X
Can select and use personal protective equipment (PPE) appropriate for first responder operations level.		Х
Understand basic hazardous materials terms.		X
Can perform basic control, containment, and/or confinement operations within the capabilities of the resources and PPE available.		X
Can implement decontamination procedures to their level training.		X
Understand relevant standard operating and termination procedures.		X

Table 4		
Competencies for Hazardous Materials Technicians and Hazardous Materials Specialist		
Employees must be able to show they:	When they are designated as a Hazardous Materials:	
	Technician	Specialist
Have the competencies specified for the first responder operations level. (See Table 3)	X	X
Can implement an employer's emergency response plan.	X	X
Can function within their assigned role in the incident command system.	X	X
Understand hazard and risk assessment techniques.	X	X
Understand basic chemical and toxicological terminology and behavior.	X	X
Can use field survey instruments and equipment to classify, identify, and verify materials at the incident.	X	X
Can select and use personal protective equipment (PPE) appropriate for hazardous materials technicians.	X	X
Can perform advance control, containment, and/or confinement operations within the capabilities of the resources and PPE available.	X	X
Can implement decontamination procedures to their level of training.	X	X
Understand termination procedures.	X	X
Can implement the local emergency response plan.		X
Know of the state emergency response plan.		X

Table 4 Competencies for Hazardous Materials Technicians and Hazardous Materials Specialist		
Can develop a site safety and control plan.	X	
Understand chemical, radiological, and toxicological terminology and behavior.	X	
Understand in-depth hazard and risk techniques.	X	
Can use advanced survey instruments and equipment to classify, identify and verify materials at the incident.	X	
Can select and use proper specialized chemical PPE given to hazardous materials specialists.	X	
Can perform specialized control, containment, and/or confinement operations within the capabilities of the resources and PPE available.	X	
Can determine decontamination procedures.	X	

Can determine decontamination procedures.	X	
Table 5	·	
Competencies for Incident	t Commanders	
Employees designated as Incident Commanders must be able to show	w they:	
Have competencies specified for the First Responder Op	erations Level. (See Table 3.)	
Know of the state emergency response plan and the Federal Regional Response Team.		
Can implement the local emergency response plan.		
Can implement the employer's emergency response plan		
<ul> <li>Have knowledge of the incident command system (ICS) and understand how they relate to it.</li> </ul>		
Can implement the employer's ICS.		
Understand the hazards and risks associated with employ	yees working in chemical protective clothing.	
Understand the importance of decontamination procedur	es.	
Note: If the first employee arriving at the scene is not trained as designated role and training level.	s an IC, they may take control of the incident within their	

Table 6	i .
Competencies for Specialist Employees	
Employees designated as Specialist Employees must be able to show they:	
<ul> <li>Have current knowledge in their field regarding safety and health practices relating to t</li> </ul>	he specific hazardous sub-
stances.	
<ul> <li>Have the knowledge of the ICS and understand how they relate to it.</li> </ul>	•
Understand the care and use of personal protective equipment (PPE).	ı in: ,

WAC 296-824-11050 Medical surveillance. Provide medical surveillance to employees.

#### You must:

- (1) Provide medical surveillance for employees to comply with Tables 7 and 8, and the following:
  - Make medical surveillance available at:
  - Reasonable times and places.
- No cost to employees, including travel associated costs such as mileage, gas or bus fare if the employee is required to travel off site

#### AND

- Wages for additional time spent outside of employees normal work hours.
- Make sure a licensed physician performs or supervises exams and procedures.

- Give complete information to the examining physician including:
  - A copy of this chapter.
- A description of the employee's duties that relate to hazardous substance exposure.
- The hazardous substance exposure levels anticipated for the employee.
- A description of the personal protective equipment (PPE) the employee could use.
- Information available from previous medical examinations.
- The medical evaluation information required by chapter 296-62 WAC, Part E, Respiratory protection.
  - Medical exams must include, at a minimum:
  - A medical history
  - A work history (or updated history if on file)
  - A special emphasis on:

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- Assessment of symptoms related to handling hazardous substances
  - Health hazards
- Evaluation of fitness for duty (including the ability to wear any personal protective equipment (PPE) or other conditions that may be expected at the workplace)
- Other content as determined by the examining physician.

Note:

The physician should consult the Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities and the Medical Management Guidelines for Acute Chemical Exposure (search OSHA website: http://www.osha.gov).

- (2) Obtain the physician's written opinion and give a copy to the employee that includes:
- A statement of whether or not medical conditions were found which would increase the employee's risk for impairment during emergency response work or respirator use.
- Do not include specific findings or diagnoses unrelated to occupational exposures.
- Limitations recommended to the employee's assigned work, if any.
- Exam and test results if the employee requests this information.
- A statement that affirms the employee has been confidentially informed of medical exam results (including medical conditions requiring follow-up).

Table 7		
Medical Surveillance for Employee Categories		
If the employee is covered by this chapter and is:	Then you must:	
• Exposed for at least 30 days a year to health hazards or hazardous substances at or above the permissible exposure limit or published exposure levels (even when respirators are used), OR	Offer standard medical surveillance as specified in Table 8.*	
• Required to wear a respirator for at least 30 days a year.*		
A hazardous materials (HAZMAT) team member     A hazardous materials specialist	• Provide standard medical surveillance as specified in Table 8.	
• An emergency responder who shows immediate or delayed signs or symptoms possibly resulting from exposure to hazardous substances during an incident.	Provide incident-specific medical surveillance as specified in Table 8.	
Not an emergency responder and:  - May be injured  - Shows immediate or delayed signs or symptoms possibly resulting from exposure to hazardous substances  - May have been exposed to hazardous substances at concentrations above the permissible exposure limits (PELs) or the published exposure levels without appropriate PPE.	Offer incident-specific medical surveillance as specified in Table 8.	

\*Note: A medical evaluation for respirator use is required by chapter 296-62 WAC, Part E, Respiratory protection, for those employees who have not been cleared for respirator use during medical surveillance activities.

Table 8 Frequency of Exams and Consultations		
If the employee is covered by:  Then medical surveillance must include:		
• Standard medical surveillance	Exams and consultations:     Before assignment.     Note: If the employee is a hazardous materials (HAZMAT) team member or a hazardous materials specialist, the employee must receive a baseline physical examination.  At least once every 12 months after their initial assignment unless the physician believes a shorter, or longer interval (but no more than 24 months) is appropriate.  Whenever employees are reassigned to an area where they will no longer be covered by medical surveillance and they have not been examined within the past 6 months.	

Table 8		
Frequency of Exams and Consultations		
	<ul> <li>As soon as possible after an employee reports:</li> <li>Signs or symptoms of possible overexposure to hazardous substances or health hazards</li> <li>Injury</li> <li>Exposure above the permissible exposure limits or published exposure levels</li> <li>At the termination of their employment unless they were examined within the past 6 months.</li> </ul>	
Incident-specific medical surveillance	<ul> <li>Medical consultations and exams:         <ul> <li>As soon as possible following the incident or development of signs or symptoms.</li> <li>At additional times, if the physician determines follow-up is medically necessary.</li> </ul> </li> </ul>	

#### WAC 296-824-11060 Keep records.

#### You must:

- Keep a record of:
- Name and Social Security number of the employee receiving medical surveillance
- Physicians' written opinions, recommended limitations, and results of examinations and tests
- Any employee medical complaints regarding hazardous substance exposures
- A copy of all information given to the examining physician (except a copy of this chapter)

Note:

Keep records meeting the criteria specified in chapter 296-62 WAC, Part B, Access to records, for the length of time specified in that chapter.

#### **NEW SECTION**

WAC 296-824-12010 Incident requirements. Recognize emergencies and initiate a response

#### You must:

- Make sure employees follow procedures in your emergency response plan to:
- Recognize when an emergency response must be initiated
- Notify employees, and others designated in your plan, of the release
  - Follow immediate emergency procedures
- Prevent the incident from increasing in severity or to secure the operation.

#### **NEW SECTION**

WAC 296-824-12020 Implement and maintain an incident command system (ICS).

#### You must:

(1) Make sure a single individual, acting as the incident commander (IC), is in charge of the site-specific incident command system (ICS) and acts within their designated role and training level.

· Note:

- For multiemployer worksites:
- The IC has responsibility for controlling emergency response operations at the site for all employers.
- Emergency response plans should be consistent in designating who assumes the IC position.
- If the first employee arriving at the scene is not trained as an IC (see Table 5, Training Requirements for Incident Commanders and Specialist Employees, WAC 296-824-11020), they may take control of the incident within their designated role and training level.
- (2) Make sure all employers' emergency responders and their communications are coordinated and controlled by the IC.

Note: The IC may delegate tasks to subordinates (within their training level).

- (3) Make sure each employer at the scene has designated a representative to assist the IC.
- (4) Establish security and control of the site as specified in your written emergency response plan.

#### **NEW SECTION**

WAC 296-824-12030 Prepare skilled support personnel.

Note: The duties of skilled support personnel are described in Table 1, Roles and Duties of Emergency Responders.

#### You must:

- (1) Make sure that your skilled support personnel (including those employees who are not regularly employed by you) who could be exposed to on-scene hazards are given an initial briefing at the site before they participate in any emergency response. The initial briefing must include:
  - · What chemical hazards are involved
  - What duties are to be performed
- Instruction in the wearing of appropriate personal protective equipment

Note: Skilled support personnel do not need to comply with the other training requirements of this chapter.

(2) Make sure the safety and health precautions given to your employees are also given to skilled support personnel.

WAC 296-824-12040 Make sure the incident commander oversees activities during the response.

#### The employer of the incident commander (IC) must:

- (1) Identify all hazardous substances and conditions present, within their training level, using site analysis and maximum exposure limits, when appropriate.
- (2) Implement emergency response procedures appropriate to the hazardous substances and conditions present, such as:
- Procedures that address the use of engineering controls, hazardous substance handling, and new technologies
  - Procedures that address decontamination
  - · Procedures that address PPE
- Procedures that limit the number of personnel to those who are actively performing emergency response operations, in areas where exposure could exist.
  - (3) Designate an incident safety officer (ISO).
- Make sure the ISO demonstrates knowledge about operations being implemented at the emergency response site. They must:
  - Identify and evaluate hazards
- Communicate with the IC about hazards, immediately informing the IC of corrective actions that must be taken when conditions are judged to be:
  - An imminent danger

OR

- ◆ Immediately dangerous to life or health (IDLH).
- Provide direction about the safety of operations.

#### **NEW SECTION**

WAC 296-824-12050 Use the buddy system in danger areas.

#### You must:

• Make sure operations and tasks (including limited actions) in danger areas are conducted using the buddy system in teams of two or more.

#### Définition:

Danger areas are areas where conditions pose a serious danger to employees, such as areas where:

Immediately dangerous to life or health (IDLH) conditions could exist.

OR

- High levels of exposure to toxic substances could exist. **OR**
- There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a hazardous substance.

#### **NEW SECTION**

WAC 296-824-12060 Provide rescue and medical assistance.

#### You must:

(1) Provide stand-by employees equipped with the same level of personal protective equipment (PPE) as the entrants, for assistance or rescue.

Note:

- The buddy system applies to stand-by employees (see WAC 296-824-12050).
- One of the two stand-by employees can be assigned to, another task provided it does not interfere with the performance of the stand-by role.
- Rescue equipment should be selected and provided based on the types of rescue situations that could occur.

#### You must:

(2) Make sure employees trained in first aid are readily available with necessary medical equipment and have a way to transport the injured.

Note:

- Employee training is covered by WAC 296-800-150, first aid. This rule requires training on the eighteen subjects listed in addition to any subjects that are specific to your workplace emergency hazards (for example: If exposure to corrosive substances could occur, training would need to include first-aid procedures for treating chemical burns).
- Employers who designate and train their employees to provide first aid are covered by WAC 296-62-08001 through 296-62-08005, bloodborne pathogens.

#### **NEW SECTION**

WAC 296-824-13010 Personal protective equipment. Use appropriate personal protective equipment (PPE).

Note:

- Only properly trained employees should select PPE. Hazardous materials technicians and hazardous materials specialists can select PPE within the competencies specified in Table 4.
- Selection requirements in other PPE rules also apply, including:
- WAC 296-800-160, Personal protective equipment.
- Chapter 296-62 WAC, Part E, Respiratory protection.
- WAC 296-24-58505, Fire brigades.
- Chapter 296-305 WAC, Safety standards for fire fighting.

#### You must:

- Provide employees with appropriate PPE and make sure it is used if hazards could be present.
- Select PPE (such as respirators, gloves, protective suits and other PPE) based on:
- ♦ An evaluation of the performance characteristics (such as breakthrough time and hazardous substance-specificity of the material or item) relevant to the requirements and limitations of the site.
  - ◆ Task-specific conditions and durations.
- ◆ The hazards and potential hazards of the site (see Table 9, Selecting PPE for Specific Hazards).
- Select totally encapsulating chemical protective (TECP) suits, as specified in Table 9, that:
  - Maintain positive air pressure.
- ♦ Prevent inward test gas leakage of more than 0.5 percent.

Note:

Follow the manufacturer's recommended procedure for testing a TECP suit's ability to maintain positive air pressure and prevent inward gas leakage. Other established test protocols for these suits, for example NFPA 1991 and ASTM F1052-97, may also be used.

Table 9 Selecting PPE for Specific Hazards		
If:	Then:	
Inhalation hazards could be present.	<ul> <li>Positive-pressure (pressure-demand) self-contained breathing apparatus (SCBA)</li> <li>OR</li> <li>A decreased level of respiratory protection only when the incident commander determines, from air monitoring results, that employees will be adequately protected.</li> </ul>	
Chemical exposure levels will create a substantial possibility of:  • Immediate death.  • Immediate serious illness or injury.  • Reduced ability to escape.	Either positive-pressure (pressure-demand):  • SCBA  • Air-line respirators equipped with an escape air supply.	
Skin absorption of a hazardous substance may result in a substantial possibility of:  • Immediate death.  • Immediate serious illness or injury.  • Reduced ability to escape.	Protection equivalent to Level A including a totally encapsulating chemical protective (TECP) suit.	

WAC 296-824-13020 Control hazards created by personal protective equipment (PPE).

#### You must:

- Control hazards created by the use of PPE, including:
- Heat stress due to extremely high temperatures.
- Any other employee health hazard and consideration.

#### **NEW SECTION**

WAC 296-824-13030 Use personal protective equipment (PPE) properly.

#### You must:

- (1) Make sure employees inspect PPE before, during and after use, following your plan's procedures.
- (2) Make sure employees put on (don) and remove (doff) PPE following your plan's procedures.
- (3) Make sure employees do not interchange self-contained breathing apparatus (SCBA) air cylinders from different manufacturers, unless all of the following apply:
  - There is a life-saving emergency
  - You need a supplemental air supply
- The cylinders are of the same capacity and pressure rating.
- (4) Make sure compressed air cylinders used with SCBAs meet the testing and service life requirements of the United States Department of Transportation (USDOT). Search at: http://www.dot.gov.

Note:

You can also check with the cylinder manufacturers to obtain USDOT test and service life specifications.

#### You must:

(5) Make sure PPE is maintained in a safe and reliable condition using your plan's procedures.

PPE maintenance includes:

• Decontamination

- Cleaning
- Inspection
- Identification of damage or defects
- Parts repair or replacement
- Storage or disposal.

#### **NEW SECTION**

### WAC 296-824-14010 Postemergency response. Important:

- Postemergency response is the stage of the emergency response where the immediate threat from the release has been stabilized or eliminated, and cleanup of the site has started.
- When cleanup is done by the employees who were part of the initial emergency response, the employees are not covered by this section (however, training, PPE and the requirements in WAC 296-824-11010 through 296-824-13030 apply to these employees).

#### You must:

- (1) Follow Table 10 to determine which requirements apply to your postemergency response activities.
- (2) Maintain clean-up equipment as specified in Table 10.

Table 10 Rules that Apply to Postemergency Response Activities		
When postemergency response cleanup is performed by employees who were not part of the initial emergency response and:  The following rules or requirements apply:		
It is necessary to remove hazardous substances, health hazards and contaminated materials (example: Soil) from the site	Chapter 296-62 WAC, Part P, Hazardous waste operations and treatment, storage and disposal facilities.	
Cleanup is done on plant property using plant or workplace employees  AND  It is not necessary to remove hazardous substances, health hazards and contaminated materials from the site.	For training:  • WAC 296-24-567(1), Employee emergency action plans • Chapter 296-62 WAC, Part E, Respiratory protection • WAC 296-800-170, Employer chemical hazard communication • Other appropriate training requirements relevant to personal protective equipment (PPE) and decontamination For equipment: • Make sure that all equipment used for clean-up work is serviced and inspected before use.	

WAC 296-824-15010 Definitions. The following definitions are specific to this chapter:

#### Annually

Any twelve-month cycle.

#### **Buddy system**

A system of organizing employees (who enter or stand by danger areas) into work groups, so each employee can be observed by at least one other member of the group. The purpose of this system is to provide rapid assistance to employees in an emergency.

#### Clean-up operation(s)

An operation where hazardous substances are removed, contained, incinerated, neutralized, stabilized, cleared up or, in any other manner, processed or handled with the goal of making the site safer for people or the environment.

#### Danger area

Ageas where conditions pose a serious danger to employees, such as areas where:

• Immediately dangerous to life or health (IDLH) conditions could exist

#### OR

- High levels of exposure to toxic substances could exist OR
- There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a substance.

#### Decontamination

Removing hazardous substances from employees and their equipment so potential adverse health effects will not occur. Emergency response

An organized response to an anticipated release of a hazardous substance that is, or could become an uncontrolled release.

#### Emergency response plan

A written plan that requires coordination between emergency response participants, and contains procedures, crite-

ria, and other information that will be applied to emergency response operations. Each employer's plan should be compatible with local and state plans.

#### **Engineering controls**

Methods of controlling employee exposures by modifying the source or reducing the quantity of contaminants.

#### Hazardous materials team (HAZMAT team)

A group of employees who are expected to perform responses to releases, or possible releases, of hazardous substances for the purpose of control and stabilization. As a result of their duties, HAZMAT team members may have close contact with hazardous substances.

Note:

A HAZMAT team may be a separate component of a fire brigade or fire department.

#### Hazardous substance

Any of the following substances that could adversely affect an exposed employee's health or safety:

- Substances defined under section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or "Superfund" Act (visit: http://www.epa.gov)
- Biological or other disease-causing agents released that could reasonably be expected to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in a person or their offspring when the person:
  - Is directly exposed to the agent in the environment
- Directly ingests, inhales, or assimilates the agent from the environment
  - Indirectly ingests the agent through a food chain
- Substances listed by the United States Department of Transportation as hazardous materials under Title 49 (Transportation) in the Code of Federal Regulations (CFR), Part 172, section 101 and appendices (visit: <a href="http://www.nara.gov">http://www.nara.gov</a> and search for "List of CFR subjects")
  - Hazardous wastes as defined in this chapter.

#### Hazardous waste

A substance designated by chapter 173-303 WAC, Dangerous waste regulations, department of ecology, as a dangerous waste or an extremely hazardous waste and any waste fitting the definition of "health hazard" in this chapter.

Note: For dep

For department of ecology regulations, visit: http://www.ecv.wa.gov

#### Health hazard

A chemical, a mixture of chemicals, or a pathogen for which there is statistically significant evidence, based on at least one study conducted according to established scientific principles, that acute or chronic health effects may occur in exposed employees.

The term "health hazard" includes stress due to temperature extremes and chemicals that are:

- Carcinogens
- Toxic or highly toxic agents
- Reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, or neurotoxins
- Agents acting on the hematopoietic system agents that damage lungs, skin, eyes, or mucous membranes. (Detailed definitions of these chemical terms can be found in the Safety and health core rules, WAC 296-800-170, chemical hazard communication.)

#### Incident command system (ICS)

An organized approach to control and manage operations at an emergency response incident.

#### Incidental release

A release that can be safely controlled at the time of the release and does not have the potential to become an uncontrolled release.

Note:

Example of a situation that results in an incidental release:

A tanker truck is receiving a load of hazardous liquid when a leak occurs. The driver knows the only hazard from the liquid is minor skin irritation. The employer has trained the driver on procedures and provided equipment to use for a release of this quantity. The driver puts on skin protection and stops the leak. A spill kit is used to contain, absorb, and pick up the spilled material for disposal.

#### Immediately dangerous to life or health (IDLH)

Any atmospheric condition that would:

· Cause an immediate threat to life

#### OR

- Cause permanent or delayed adverse health effects
- Interfere with an employee's ability to escape

#### Limited action

Action necessary to:

- Secure an operation during emergency responses,
- Prevent an incident from increasing in severity.

Examples include shutting down processes and closing emergency valves.

#### Lines of authority

A preestablished ranking of individuals, qualified to assume a commanding role during an emergency response, noted in an emergency response plan and implemented during a response. This is most important when responders from multiple employers could participate in an emergency response.

#### Lower explosive limit (LEL)

See lower flammable limit (LFL).

#### Lower Flammable limit (LFL)

The lowest concentration of a material that will propagate a flame. The LFL is usually expressed as a percent (by volume) of the material in air (or other oxidant).

#### Must

Must means mandatory.

#### Permissible exposure limit (PEL)

Means the established time-weighted-average (TWA) concentration or ceiling concentration of a contaminant that must not be exceeded. The exposure, inhalation, or dermal permissible limit specified in chapter 296-62 WAC, Part H, Air contaminants. Personal protective equipment (PPE)

Protective items designed to be worn by the user to protect them against airborne, skin contact and other hazards. This includes items such as respiratory protection, protective suits, gloves, eye protection, etc.

#### Postemergency response

The stage of the emergency response where the immediate threat from the release has been stabilized or eliminated, and cleanup of the site has started.

#### Published exposure level

Exposure limits published in "National Institute for Occupational Safety and Health (NIOSH) Recommendations for Occupational Safety and Health" (DHHS publication #92-100, 1992).

If an exposure limit is not published by NIOSH, then "published exposure level" means the exposure limits published by the American Conference of Governmental Industrial Hygienists (ACGIH) in "TLVs and BEIs-Threshold Limit Values for Chemical Substances and Physical Agents" (1999 edition).

Note:

Additional exposure levels published by recognized organizations such as the American Industrial Hygiene Association are not required to be observed by this rule; however, they may be a useful resource when a hazardous substance is not covered by NIOSH and ACGIH publications.

#### Release

A spill, leak, or other type of hazardous substance discharge.

#### Uncontrolled release

A release where significant safety and health risks could be created. Releases of hazardous substances that are either incidental or could not create a safety or health hazard (i.e., fire, explosion or chemical exposure) are not considered to be uncontrolled releases. Examples of conditions that could create a significant safety and health risk:

- Large-quantity releases
- Small releases that could be highly toxic
- Potentially contaminated individuals arriving at hospitals
- Airborne exposures that could exceed a WISHA permissible exposure limit or a published exposure limit and employees are not adequately trained or equipped to control the release.

#### Example of an uncontrolled release:

A forklift driver knocks over a container of a solvent-based liquid, releasing the contents onto the warehouse floor. The driver has been trained to recognize the vapor is flammable and moderately toxic when inhaled. The driver has not been trained or provided appropriate equipment to address this type of spill. In this situation, it is not safe for the driver to attempt a response. The driver needs to notify someone of the release so an emergency response can be initiated.

#### Workplace

· A fixed facility

OR

• A temporary location (such as a traffic corridor)

OR

Locations where employees respond to emergencies.

You

The employer. For a complete definition of "employer" see Safety and health core rules, chapter 296-800 WAC.

#### PART U-4 EMERGENCY RESPONSE

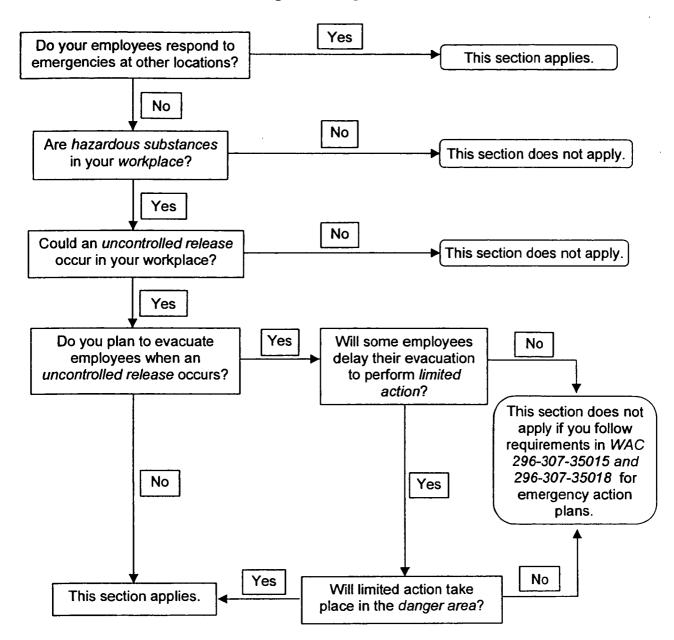
#### **NEW SECTION**

WAC 296-307-452 Scope. What is the purpose of WAC 296-307-452, Emergency response to hazardous substance releases?

To state the minimum requirements that help you protect the safety and health of your employees during a response to a hazardous substance releases in your workplace or any other location.

Do the requirements of this rule apply to your work-place?

This section applies if your employees are, or could become, involved in responding to uncontrolled releases of hazardous substances in your workplace or any other location. Use the scope flow chart, and definitions that follow, to determine if this section applies to your workplace(s). Defined words are *italicized* in the flow chart.



- \*The flow chart references other rules applicable to your workplace depending on conditions and hazards. Examples include:
- WAC 296-62-400, Hazardous chemicals in laboratories
  - WAC 296-62-071, Respiratory protection

Definitions applicable to the flow chart (see WAC 296-307-46000 for additional definitions used in this section):

#### Danger area

Areas where conditions pose a serious danger to employees, such as areas where:

• Immediately dangerous to life or health (IDLH) conditions could exist

#### OR

• High levels of exposure to toxic substances could exist

#### OR

• There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a substance.

#### Emergency response

A response to an anticipated release of a hazardous substance that is, or could become, an uncontrolled release.

#### Hazardous substance

Any biological, radiological, or chemical substance that can have adverse effects on humans. (See WAC 296-307-46000 for a more specific definition.)

#### Immediately dangerous to life or health (IDLH)

Any atmospheric condition that would:

- · Cause an immediate threat to life
- Cause permanent or delayed adverse health effects
- Interfere with an employee's ability to escape

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#### Incidental release

A release that can be safely controlled at the time of the release and does not have the potential to become an *uncontrolled release*.

Example of a situation that results in an incidental release:

A tanker truck is receiving a load of hazardous liquid when a leak occurs. The driver knows the only hazard from the liquid is minor skin irritation. The employer has trained the driver on procedures and provided equipment to use for a release of this quantity. The driver puts on skin protection and stops the leak. A spill kit is used to contain, absorb, and pick up the spilled material for disposal.

#### Limited action

Action necessary to:

• Secure an operation during emergency responses, OR

• Prevent an incident from increasing in severity.

Examples include shutting down processes and closing emergency valves.

#### Release

A spill, leak, or other type of hazardous substance discharge.

#### Uncontrolled release

A release where significant safety and health risks could be created. Releases of hazardous substances that are either incidental or could not create a safety or health hazard (i.e., fire, explosion or chemical exposure) are not considered to be uncontrolled releases.

Examples of conditions that could create a significant safety and health risk:

- · Large-quantity releases
- Small-releases that could be highly toxic
- Airborne exposures that could exceed a WISHA permissible exposure limit or a published exposure limit and employees are not adequately trained or equipped to control the release.

#### Example of an uncontrolled release:

A forklift driver knocks over a container of a solvent-based liquid, releasing the contents onto the warehouse floor. The driver has been trained to recognize the vapor is flammable and moderately toxic when inhaled. The driver has not been trained or provided appropriate equipment to address this type of spill. In this situation, it is not safe for the driver to attempt a response. The driver needs to notify someone of the release so an emergency response can be initiated.

#### Workplace

· A fixed facility

ΩR

- A temporary location (such as a traffic corridor)
   OR
- Locations where employees respond to emergencies.

#### Summary

#### Your responsibility:

To anticipate, plan for, and manage emergency response operations so employees are protected from hazardous substances and conditions.

Note:

Other chapters may apply to your workplace, such as:

Chapter 296-62 WAC, General occupational health standards

You will find some safety and health requirements (for example, personal protective equipment) are addressed on a general level in the core rules, while being addressed for a specific application in this section. When this happens, both requirements apply and should not conflict.

If you are uncertain which requirements to follow, you must comply with the more protective requirement. Contact your local L&I office if you need assistance in making this determination.

#### You must:

WAC 296-307-45210 Planning

WAC 296-307-45220 Training

WAC 296-307-45230 Medical surveillance

WAC 296-307-45240 Keep records

WAC 296-307-45400 Incident requirements

WAC 296-307-45410 Implement and maintain an incident command system (ICS) (incident command system)

WAC 296-307-45420 Prepare skilled support personnel

WAC 296-307-45430 Make sure the incident commander oversees activities during the response

WAC 296-307-45440 Use the buddy system in danger areas

WAC 296-307-45450 Provide rescue and medical assistance

WAC 296-307-45600 Personal protective equipment

WAC 296-307-45610 Control hazards created by personal protective equipment (PPE)

WAC 296-307-45620 Use personal protective equipment (PPE) properly

WAC 296-307-45800 Postemergency response WAC 296-307-46000 Definitions.

#### **NEW SECTION**

WAC 296-307-45210 Planning. Develop an emergency response plan.

Note:

- You may already have an emergency response plan, such as required by chapter 296-62 WAC, Part P, Hazardous waste operations and treatment, storage and disposal facilities or by state and locally coordinated response efforts (Section 303 of Superfund Amendments and Reauthorization Act (SARA), Title III). You may use those plans to comply with this section, if they include the items listed below.
- Before a written emergency response plan can be developed, you will need to anticipate the types of uncontrolled releases that employees could encounter in your workplace(s).

#### You must:

(1) Make sure your plan is written and adequately addresses, as a minimum, all of the following:

- Preemergency planning and coordination with additional responders (including personnel from other employers such as: Fire departments, law enforcement agencies, emergency medical services, and state or federal agencies).
- Personnel roles, (see Table 1) and lines of authority and communications for all affected parties including responders
- Employee training (see WAC 296-307-45220, train your employees), for more detail:

Note:

- Responders' level of training depends on the duties and roles the employer assigns.
- Training for the employees' role should address the competencies specified in Tables 3 through 6.
- Training on specific substances may be appropriate depending on the number and characteristics of hazardous substances expected to be encountered. For example, if employees may only respond to one substance, you could provide training (covering the knowledge and skills specified in Tables 3 through 6) relevant to that single substance. If employees might respond to a range of hazardous substances, training may be required to cover categories of hazardous substances.
- Videos and automated training methods (for example: Interactive computer based programs) may be used in training; however, instructors must be readily available to:
- Encourage and provide résponses to questions for the benefit of the group
  - Evaluate employees' understanding of the material
  - Provide instructional interaction to the group.
  - Emergency recognition
  - Immediate emergency procedures including:
- Methods of alerting employees (see WAC 296-307-345, Employee alarm systems) and outside responders
  - Procedures for limited action (emergency prevention)

Note:

Limited action includes shutting down processes, closing emergency valves and other critical actions to secure the operation, or prevent the incident from increasing in severity.

Limited Action and Employee Roles		
If	Then employees involved would be:	
Limited action could be con- ducted in the danger area	Considered emergency responders	
Limited action will not be conducted in IDLH conditions	Considered evacuees, not emergency responders	

- Details of who will evacuate immediately and who will remain behind for limited action

- Evacuation routes and procedures
- How to establish safe distances and places of refuge (for example, during emergency response the incident commander (IC) decides to make changes based on new developments, i.e., changes in the wind direction).
  - Methods of securing and controlling access to the site
  - Emergency medical treatment and first aid
- A complete personal protective equipment (PPE) program that addresses:
- Selection of PPE including selection criteria to be used and the identification, specified use and limitations of the PPE selected.
- Training on proper use of PPE (including maintenance).
- Hazards created by wearing PPE including heat stress during temperature extremes, and/or other appropriate medical considerations.
  - Criteria used for determining the proper fit of PPE.
- Procedures covering proper use of PPE including procedures for inspection, putting it on (donning) and removing it (doffing).
- Maintenance of PPE including procedures for decontamination, disposal and storage.
- Methods used to evaluate the effectiveness of your PPE program.

Note:

- If a manufacturer's printed information or WISHA rule adequately addresses procedural requirements (such as donning or doffing for PPE), it is not necessary to rewrite this into your program; simply attach the printed information.
- You may use written procedures provided by the equipment manufacturer when they meet the requirements of other chapters, including chapter 296-62 WAC, Part E, Respiratory protection.
- Emergency equipment
- · Emergency response procedures
- Decontamination procedures determined by a hazardous materials specialist or other qualified individual
- Methods to critically assess the response and conduct appropriate follow-up

You must:

(2) Make your written emergency response plantavailable to employees, their representatives, and WISHA personnel for inspecting or copying.

Note:

In situations where multiple employers could respond to an incident, all plans should consistently address:

- Who will be designated as the incident commander (IC) AND
- If, when, and how transfer of the incident commander (IC) position will take place.

Table 1  Roles and Duties of Emergency Responders		
If the employee's role is: Then all the following apply. They:		
First responder at the awareness level	Are likely to witness or discover a hazardous substance release	
	Are trained to initiate an emergency response by notifying the proper authorities of the release	
<u> </u>	Take no further action beyond notifying the authorities	

	Table 1		
	Roles and Duties of Emergency Responders		
If the employee's role is:	Then all the following apply. They:		
First responder at the operations level	<ul> <li>Respond to actual or potential releases in order to protect nearby persons, property, and/or the environment from the effects of the release</li> </ul>		
	Are trained to respond defensively, without trying to stop the release		
	May try to:		
	- Confine the release from a safe distance		
	- Keep it from spreading		
	- Protect others from hazardous exposures		
Hazardous materials technician	Respond to releases or potential releases, with the intent of stopping the release		
	Are trained to approach the point of release offensively in order to, either:		
	- Plug		
	- Patch		
	- Stop the release using other methods		
Hazardous materials specialist	1 11 /		
	Are required to have more specific knowledge of hazardous substances than a hazardous materials technician		
	Act as the site activity liaison when federal, state, local, and other government authorities		
	participate		
Incident commander	Have ultimate responsibility for:		
	- Direction		
	- Control		
	- Coordination of the response effort		
	- Will assume control of the incident beyond the first responder awareness level		
Specialist employee	Are a technical, medical, environmental, or other type of expert		
	• May represent a hazardous substance manufacturer, shipper, or a government agency		
	May be present at the scene or may assist from an off-site location		
	Regularly work with specific hazardous substances		
	Are trained in the hazards of specific substances		
<u> </u>	<ul> <li>Are expected to give technical advice or assistance to the incident commander or incident safety officer, when requested</li> </ul>		
Skilled support personnel	Are needed to perform an immediate, specific emergency support task at the site		
	Are skilled in the operation of equipment including:		
	<ul> <li>Earth moving equipment</li> </ul>		
	- Cranes		
	<ul> <li>Hoisting equipment</li> </ul>		
Incident safety officer	Are designated by the incident commander		
	Are knowledgeable in operations being implemented at the site		
	Have specific responsibility to		
	- Identify and evaluate hazards		
	- Provide direction on employee safety matters		

#### WAC 296-307-45220 Training.

Train your employees

Note:

• Use Tables 3 through 6 to identify your employees' training competencies.

- You may conduct training internally, or use outside training services to comply with this section.
- When outside trainers are hired, you are still responsible for making sure the requirements of this section are met. For example, employers may compare the course outline to the competencies listed in Tables 3 through 6.

#### You must:

 Make sure employees are appropriately trained for their assigned roles and duties as follows:

EXEMPTION: Skilled support employees are not covered by the training requirements of this section (see WAC 296-

307-45420).

#### - Initial training:

• Provide initial training before the employee is allowed to participate in an actual emergency response operation.

Note:

When first responders at the awareness or operations level have sufficient experience to objectively demonstrate competencies specified in Table 3, you may accept experience instead of training.

- Make sure initial training adequately addresses the competencies in Tables 3 through 6 and the minimum training durations in Table 2.
- Certify that employees objectively demonstrate competencies specified in Tables 3 through 6 (except for employees trained as first responders at the awareness level).

#### - Retraining (refresher) training:

- · Provide retraining annually
- Make sure retraining covers necessary content
- Document training or demonstrated competency

Note:

Retraining is not required when employees demonstrate competencies annually and a record is kept of the demonstration methodology used.

#### - Trainer qualifications:

• Verify trainers have satisfactorily completed an instructors' training course for the subjects they teach. For example, courses offered by the United States National Academy, or equivalent courses are acceptable.

#### OR

• Have the educational and instructional experience necessary for training.

#### - Specialist employees:

• Specialist employees who have been sent to the scene to advise or assist must receive training or demonstrate competency in their specialty, annually.

Table 2  Minimum Training Durations for all Responders		
If you are a: Then:		
First responder at the awareness level	Training duration needs to be sufficient to provide the required competencies	
First responder at the operations level	You need a minimum of 8 hours training (see Table 3)	
Hazardous materials technician	You need a minimum of 24 hours training (see Table 4)	
Hazardous materials specialist	You need a minimum of 24 hours training (see Table 4)	
Incident commander	You need a minimum of 24 hours training (see Table 5)	

Table 3			
Competencies for First Responders at the Awareness Level and Operations Level			
Employees must be able to show they:	When they are designated as First Responders at the:		
	Awareness Level	Operations	Level
Understand what hazardous substances are and their associated risks.	X	X	
Recognize the presence of hazardous substances in an emergency.	X	X	
Can identify the hazardous substances, when possible.	X	X	bel
Understand the potential consequences of hazardous substances in an emergency.	X	X	
Understand the role of a first responder at the awareness level as described in:  • The employer's emergency response plan, including site security and control.  • The United States Department of Transportation's Emergency Response Guidebook. (search at: http://www.dot.gov).	X .	X	
Can use The United States Department of Transportation's Emergency Response Guidebook.	X	X	
Recognize the need for additional resources and the need to notify the incident's communication center accordingly.	X	X	
Know basic hazard and risk assessment techniques.		X	
Can select and use personal protective equipment (PPE) appropriate for first responder operations level.		X	
Understand basic hazardous materials terms.		X	

Table 3	
Competencies for First Responders at the Awareness Level and Operations Level	
Can perform basic control, containment, and/or confinement operations within the capabilities of the resources and PPE available.	
Can implement decontamination procedures to their level training.	X
Understand relevant standard operating and termination procedures.	X

Table 4		
Competencies for Hazardous Materials Technicians	and Hazardous M	aterials Specialist
Employees must be able to show they:	When they are designated as a Hazardous Materials:	
	Technician	Specialist
Have the competencies specified for the first responder operations level. (See Table 3)	X	Х
Can implement an employer's emergency response plan.	X	X
Can function within their assigned role in the incident command system.	X	X
Understand hazard and risk assessment techniques.	X	X
Understand basic chemical and toxicological terminology and behavior.	Х	Х
Can use field survey instruments and equipment to classify, identify, and verify materials at the incident.	X	. X
Can select and use personal protective equipment (PPE) appropriate for hazardous materials technicians.	Х	X
Can perform advance control, containment, and/or confinement operations within the capabilities of the resources and PPE available.	Х	X
Can implement decontamination procedures to their level of training.	X	X
Understand termination procedures.	X	X
Can implement the local emergency response plan.		X
Know of the state emergency response plan.		X
Can develop a site safety and control plan.		X
Understand chemical, radiological, and toxicological terminology and behavior.		Х
Understand in-depth hazard and risk techniques.		X
Can use advanced survey instruments and equipment to classify, identify and verify materials at the incident.		X .
Can select and use proper specialized chemical PPE given to hazardous materials specialists.		X
Can perform specialized control, containment, and/or confinement operations within the capabilities of the resources and PPE available.		Х
Can determine decontamination procedures.		X

# Table 5 Competencies for Incident Commanders Employees designated as Incident Commanders must be able to show they: • Have competencies specified for the First Responder Operations Level. (See Table 3.) • Know of the state emergency response plan and the Federal Regional Response Team. • Can implement the local emergency response plan. • Can implement the employer's emergency response plan. • Have knowledge of the incident command system (ICS) and understand how they relate to it. • Can implement the employer's ICS.

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#### Table 5

- Competencies for Incident Commanders

   Understand the hazards and risks associated with employees working in chemical protective clothing.
- Understand the importance of decontamination procedures.

Note: If the first employee arriving at the scene is not trained as an IC, they may take control of the incident within their designated role and training level.

#### Table 6

#### Competencies for Specialist Employees

Employees designated as Specialist Employees must be able to show they:

- Have current knowledge in their field regarding safety and health practices relating to the specific hazardous substances
- Have the knowledge of the ICS and understand how they relate to it.
- Understand the care and use of personal protective equipment (PPE).

#### **NEW SECTION**

WAC 296-307-45230 Medical surveillance. Provide medical surveillance to employees.

#### You must:

- (1) Provide medical surveillance for employees to comply with Tables 7 and 8, and the following:
  - Make medical surveillance available at:
  - Reasonable times and places.
- No cost to employees, including travel associated costs such as mileage, gas or bus fare if the employee is required to travel off site

#### AND

- Wages for additional time spent outside of employees normal work hours.
- Make sure a licensed physician performs or supervises exams and procedures.
- Give complete information to the examining physician including:
  - A copy of this section.
- A description of the employee's duties that relate to hazardous substance exposure.
- The hazardous substance exposure levels anticipated for the employee.
- A description of the personal protective equipment (PPE) the employee could use.
- Information available from previous medical examinations.
- The medical evaluation information required by chapter 296-62 WAC, Part E, Respiratory protection.
  - Medical exams must include, at a minimum:

- A medical history
- A work history (or updated history if on file)
- A special emphasis on:
- Assessment of symptoms related to handling hazardous substances
  - Health hazards
- Evaluation of fitness for duty (including the ability to wear any personal protective equipment (PPE) or other conditions that may be expected at the workplace)
- Other content as determined by the examining physician.

Note:

The physician should consult the Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities and the Medical Management Guidelines for Acute Chemical Exposure (search OSHA website: http://www.osha.gov).

- (2) Obtain the physician's written opinion and give a copy to the employee that includes:
- A statement of whether or not medical conditions were found which would increase the employee's risk for impairment during emergency response work or respirator use.
- Do not include specific findings or diagnoses unrelated to occupational exposures.
- Limitations recommended to the employee's assigned work, if any.
- Exam and test results if the employee requests this information.
- A statement that affirms the employee has been confidentially informed of medical exam results (including medical conditions requiring follow-up).

Table 7  Medical Surveillance for Employee Categories	
If the employee is covered by this section and is:  Then you must:	
• Exposed for at least 30 days a year to health hazards or haz- ardous substances at or above the permissible exposure limit or published exposure levels (even when respirators are used),	
OR • Required to wear a respirator for at least 30 days a year.*	

	ble 7	
Medical Surveillance for Employee Categories		
<ul> <li>A hazardous materials (HAZMAT) team member</li> <li>A hazardous materials specialist</li> </ul>	• Provide standard medical surveillance as specified in Table 8.	
• An emergency responder who shows immediate or delayed signs or symptoms possibly resulting from exposure to hazardous substances during an incident.	• Provide incident-specific medical surveillance as specified in Table 8.	
<ul> <li>Not an emergency responder and:         <ul> <li>May be injured</li> <li>Shows immediate or delayed signs or symptoms possibly resulting from exposure to hazardous substances</li> <li>May have been exposed to hazardous substances at concentrations above the permissible exposure limits (PELs) or the published exposure levels without appropriate PPE.</li> </ul> </li> </ul>	Offer incident-specific medical surveillance as specified in Table 8.	

\*Note: A medical evaluation for respirator use is required by chapter 296-62 WAC, Part E, Respiratory protection, for those employees who have not been cleared for respirator use during medical surveillance activities.

	Table 8	
Frequency of Exams and Consultations		
If the employee is covered by:	Then medical surveillance must include:	
Standard medical surveillance	Exams and consultations:	
	<ul> <li>♣ Injury</li> <li>♠ Exposure above the permissible exposure limits or published exposure levels         <ul> <li>At the termination of their employment unless they were examined within the past 6 months.</li> </ul> </li> </ul>	
Incident-specific medical surveillance	<ul> <li>Medical consultations and exams:         <ul> <li>As soon as possible following the incident or development of signs or symptoms.</li> <li>At additional times, if the physician determines follow-up is medically necessary.</li> </ul> </li> </ul>	

#### **NEW SECTION**

#### WAC 296-307-45240 Keep records.

#### You must:

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- Keep a record of:
- Name and Social Security number of the employee receiving medical surveillance
- Physicians' written opinions, recommended limitations, and results of examinations and tests
- Any employee medical complaints regarding hazardous substance exposures
- A copy of all information given to the examining physician (except a copy of this section).

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WAC 296-307-45400 Incident requirements. Recognize emergencies and initiate a response

#### Von must:

- Make sure employees follow procedures in your emergency response plan to:
- Recognize when an emergency response must be initiated
- Notify employees, and others designated in your plan, of the release
  - Follow immediate emergency procedures
- Prevent the incident from increasing in severity or to secure the operation.

#### **NEW SECTION**

### WAC 296-307-45410 Implement and maintain an incident command system (ICS).

#### You must:

(1) Make sure a single individual, acting as the incident commander (IC), is in charge of the site-specific incident command system (ICS) and acts within their designated role and training level.

Note:

- For multiemployer worksites:
- The IC has responsibility for controlling emergency response operations at the site for all employers.
- Emergency response plans should be consistent in designating who assumes the IC position.
- If the first employee arriving at the scene is not trained as an IC (see Table 5, Training Requirements for Incident Commanders and Specialist Employees, WAC 296-824-11020), they may take control of the incident within their designated role and training level.
- (2) Make sure all employers' emergency responders and their communications are coordinated and controlled by the IC.

Note: The IC may delegate tasks to subordinates (within their training level).

- (3) Make sure each employer at the scene has designated a representative to assist the IC.
- (4) Establish security and control of the site as specified in your written emergency response plan.

#### **NEW SECTION**

### WAC 296-307-45420 Prepare skilled support personnel.

Note: The duties of skilled support personnel are described in Table 1, Roles and Duties of Emergency Responders.

#### You must:

- (1) Make sure that your skilled support personnel (including those employees who are not regularly employed by you) who could be exposed to on-scene hazards are given an initial briefing at the site before they participate in any emergency response. The initial briefing must include:
  - · What chemical hazards are involved
  - What duties are to be performed
- Instruction in the wearing of appropriate personal protective equipment

Note:

Skilled support personnel do not need to comply with the other training requirements of this section.

(2) Make sure the safety and health precautions given to your employees are also given to skilled support personnel.

#### **NEW SECTION**

### WAC 296-307-45430 Make sure the incident commander oversees activities during the response. The employer of the incident commander (IC) must:

- (1) Identify all hazardous substances and conditions present, within their training level, using site analysis and maximum exposure limits, when appropriate.
- (2) Implement emergency response procedures appropriate to the hazardous substances and conditions present, such as:
- Procedures that address the use of engineering controls, hazardous substance handling, and new technologies
  - Procedures that address decontamination
  - Procedures that address PPE
- Procedures that limit the number of personnel to those who are actively performing emergency response operations, in areas where exposure could exist.
  - (3) Designate an incident safety officer (ISO).
- Make sure the ISO demonstrates knowledge about operations being implemented at the emergency response site. They must:
  - Identify and evaluate hazards
- Communicate with the IC about hazards, immediately informing the IC of corrective actions that must be taken when conditions are judged to be:
  - ◆ An imminent danger

#### OR

- ♦ Immediately dangerous to life or health (IDLH).
- Provide direction about the safety of operations.

#### **NEW SECTION**

### WAC 296-307-45440 Use the buddy system in danger areas.

#### You must:

• Make sure operations and tasks (including limited actions) in danger areas are conducted using the buddy system in teams of two or more.

#### **Definition:**

Danger areas are areas where conditions pose a serious danger to employees, such as areas where:

• Immediately dangerous to life or health (IDLH) conditions could exist.

#### OR

- High levels of exposure to toxic substances could exist.
- There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL) of a hazardous substance.

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### WAC 296-307-45450 Provide rescue and medical assistance.

#### You must:

(1) Provide stand-by employees equipped with the same level of personal protective equipment (PPE) as the entrants, for assistance or rescue.

Note:

- The buddy system applies to stand-by employees (WAC 296-307-45440).
- One of the two stand-by employees can be assigned to another task provided it does not interfere with the performance of the stand-by role.
- Rescue equipment should be selected and provided based on the types of rescue situations that could occur.

#### You must:

(2) Make sure employees trained in first aid are readily available with necessary medical equipment and have a way to transport the injured.

Note:

- Employee training is covered by WAC 296-800-150, first aid. This rule requires training on the eighteen subjects listed in addition to any subjects that are specific to your workplace emergency hazards (for example: If exposure to corrosive substances could occur, training would need to include first-aid procedures for treating chemical burns).
- Employers who designate and train their employees to provide first aid are covered by WAC 296-62-08001 through 296-62-08005, bloodborne pathogens.

#### **NEW SECTION**

#### WAC 296-307-45600 Personal protective equipment.

Note

- Only properly trained employees should select PPE. Hazardous materials technicians and hazardous materials specialists can select PPE within the competencies specified in Table 4.
- Selection requirements in other PPE rules also apply, including:
- Chapter 296-62 WAC, Part E, Respiratory protection.
- Chapter 296-305 WAC, Safety standards for fire fighting.

#### You must:

- Provide employees with appropriate PPE and make sure it is used if hazards could be present.
- Select PPE (such as respirators, gloves, protective suits and other PPE) based on:
- ♦ An evaluation of the performance characteristics (such as breakthrough time and hazardous substance-specificity of the material or item) relevant to the requirements and limitations of the site.
  - **♦** Task-specific conditions and durations.
- ♦ The hazards and potential hazards of the site (see Table 9, Selecting PPE for Specific Hazards).
- Select totally encapsulating chemical protective (TECP) suits, as specified in Table 9, that:
  - ◆ Maintain positive air pressure.
- ◆ Prevent inward test gas leakage of more than 0.5 percent.

Note:

Follow the manufacturer's recommended procedure for testing a TECP suit's ability to maintain positive air pressure and prevent inward gas leakage. Other established test protocols for these suits, for example NFPA 1991 and ASTM F1052-97, may also be used.

unough 250-02-08003, bloodbothe padlogens.	ASTITITIOS2-77, may also be used.	
Г	able 9	
Selecting PPE for Specific Hazards		
If:	Then use:	
Inhalation hazards could be present.	Positive-pressure (pressure-demand) self-contained breathing apparatus (SCBA)  OR	
	• A decreased level of respiratory protection only when the incident commander determines, from air monitoring results, that employees will be adequately protected.	
Chemical exposure levels will create a substantial possibilit of:  • Immediate death.  • Immediate serious illness or injury.	Either positive-pressure (pressure-demand):  • SCBA  • Air-line respirators equipped with an escape air supply.	
• Reduced ability to escape.  Skin absorption of a hazardous substance may result in a substance		
<ul> <li>stantial possibility of:</li> <li>Immediate death.</li> <li>Immediate serious illness or injury.</li> <li>Reduced ability to escape.</li> </ul>	lating chemical protective (TECP) suit.	

WAC 296-307-45610 Control hazards created by personal protective equipment (PPE).

#### You must:

- Control hazards created by the use of PPE, including:
- Heat stress due to extremely high temperatures.
- Any other employee health hazard and consideration.

#### **NEW SECTION**

WAC 296-307-45620 Use personal protective equipment (PPE) properly.

#### You must:

- (1) Make sure employees inspect PPE before, during and after use, following your plan's procedures.
- (2) Make sure employees put on (don) and remove (doff) PPE following your plan's procedures.
- (3) Make sure employees do not interchange self-contained breathing apparatus (SCBA) air cylinders from different manufacturers, unless all of the following apply:
  - There is a life-saving emergency
  - You need a supplemental air supply
- The cylinders are of the same capacity and pressure rating.
- (4) Make sure compressed air cylinders used with SCBAs meet the testing and service life requirements of the United States Department of Transportation (USDOT). Search at: http://www.dot.gov.

Note:

You can also check with the cylinder manufacturers to obtain USDOT test and service life specifications.

#### You must:

- (5) Make sure PPE is maintained in a safe and reliable condition using your plan's procedures. PPE maintenance includes:
  - Decontamination
  - Cleaning
  - Inspection
  - Identification of damage or defects
  - · Parts repair or replacement
  - · Storage or disposal.

#### **NEW SECTION**

### WAC 296-307-45800 Postemergency response. Important:

- Postemergency response is the stage of the emergency response where the immediate threat from the release has been stabilized or eliminated, and cleanup of the site has started.
- When cleanup is done by the employees who were part of the initial emergency response, the employees are not covered by this section (however, training, PPE and other requirements in WAC 296-307-45600 through 296-307-45620 apply to these employees).

You must:

- (1) Follow Table 10 to determine which requirements apply to your postemergency response activities.
- (2) Maintain clean-up equipment as specified in Table 10.

Table 10 Rules that Apply to Postemergency Response Activities		
When postemergency response cleanup is performed by employees who were not part of the initial emergency response and:	The following rules or requirements apply:	
It is necessary to remove hazardous substances, health hazards and contaminated materials (example: Soil) from the site	Chapter 296-62 WAC, Part P, Hazardous waste operations and treatment, storage and disposal facilities.	
Cleanup is done on plant property using plant or workplace employees  AND  It is not necessary to remove hazardous substances, health hazards and contaminated materials from the site.	For training:  • WAC 296-307-35015 and 296-307-35018, Employee emergency action plans  • Chapter 296-62 WAC, Part E, Respiratory protection  • WAC 296-307-550, Employer chemical hazard communication  • Other appropriate training requirements relevant to personal protective equipment (PPE) and decontamination For equipment:  • Make sure that all equipment used for clean-up work is serviced and inspected before use.	

#### **NEW SECTION**

WAC 296-307-46000 Definitions. The following definitions are specific to this section:

#### Annually

Any twelve-month cycle.

#### **Buddy system**

A system of organizing employees (who enter or stand by danger areas) into work groups, so each employee can be observed by at least one other member of the group. The purpose of this system is to provide rapid assistance to employees in an emergency.

#### Clean-up operation(s)

An operation where hazardous substances are removed, contained, incinerated, neutralized, stabilized, cleared up or, in any other manner, processed or handled with the goal of making the site safer for people or the environment.

#### Danger area

Areas where conditions pose a serious danger to employees, such as areas where:

• Immediately dangerous to life or health (IDLH) conditions could exist

#### OR

- High levels of exposure to toxic substances could exist **OR**
- There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a substance.

#### Decontamination

Removing hazardous substances from employees and their equipment so potential adverse health effects will not occur. **Emergency response** 

An organized response to an anticipated release of a hazardous substance that is, or could become an uncontrolled release.

#### Emergency response plan

A written plan that requires coordination between emergency response participants, and contains procedures, criteria, and other information that will be applied to emergency response operations. Each employer's plan should be compatible with local and state plans.

#### **Engineering controls**

Methods of controlling employee exposures by modifying the source or reducing the quantity of contaminants.

#### Hazardous materials team (HAZMAT team)

A group of employees who are expected to perform responses to releases, or possible releases, of hazardous substances for the purpose of control and stabilization. As a result of their duties, HAZMAT team members may have close equated with hazardous substances.

Nhte: A HAZMAT team may be a separate component of a fire brigade or fire department.

#### Hazardous substance

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Any of the following substances that could adversely affect an exposed employee's health or safety:

- Substances defined under section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or "Superfund" Act (visit: http://www.epa.gov)
- Biological or other disease-causing agents released that could reasonably be expected to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in a person or their offspring when the person:
  - Is directly exposed to the agent in the environment
- Directly ingests, inhales, or assimilates the agent from the environment
  - Indirectly ingests the agent through a food chain

- Substances listed by the United States Department of Transportation as hazardous materials under Title 49 (Transportation) in the Code of Federal Regulations (CFR), Part 172, section 101 and appendices (visit: <a href="http://www.nara.gov">http://www.nara.gov</a> and search for "List of CFR subjects")
  - Hazardous wastes as defined in this section.

#### Hazardous waste

A substance designated by chapter 173-303 WAC, Dangerous waste regulations, department of ecology, as a dangerous waste or an extremely hazardous waste and any waste fitting the definition of "health hazard" in this section.

Note: For department of ecology regulations, visit: http://www.

#### Health hazard

A chemical, a mixture of chemicals, or a pathogen for which there is statistically significant evidence, based on at least one study conducted according to established scientific principles, that acute or chronic health effects may occur in exposed employees.

The term "health hazard" includes stress due to temperature extremes and chemicals that are:

- Carcinogens
- Toxic or highly toxic agents
- Reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, or neurotoxins
- Agents acting on the hematopoietic system agents that damage lungs, skin, eyes, or mucous membranes. (Detailed definitions of these chemical terms can be found in the Safety and health core rules, WAC 296-307-550, chemical hazard communication.)

#### Incident command system (ICS)

An organized approach to control and manage operations at an emergency response incident.

#### Incidental release

A release that can be safely controlled at the time of the release and does not have the potential to become an uncontrolled release.

Note:

Example of a situation that results in an incidental release:

A tanker truck is receiving a load of hazardous liquid when a leak occurs. The driver knows the only hazard from the liquid is minor skin irritation. The employer has trained the driver on procedures and provided equipment to use for a release of this quantity. The driver puts on skin protection and stops the leak. A spill kit is used to contain, absorb, and pick up the spilled material for disposal.

#### Immediately dangerous to life or health (IDLH)

Any atmospheric condition that would:

· Cause an immediate threat to life

#### OI

- Cause permanent or delayed adverse health effects
   OR
- Interfere with an employee's ability to escape

#### Limited action

Action necessary to:

Secure an operation during emergency responses,

OR

• Prevent an incident from increasing in severity.

Examples include shutting down processes and closing emergency valves.

#### Lines of authority

A preestablished ranking of individuals, qualified to assume a commanding role during an emergency response, noted in an emergency response plan and implemented during a response. This is most important when responders from multiple employers could participate in an emergency response.

#### Lower explosive limit (LEL)

See lower flammable limit (LFL).

#### Lower flammable limit (LFL)

The lowest concentration of a material that will propagate a flame. The LFL is usually expressed as a percent (by volume) of the material in air (or other oxidant).

#### Must

Must means mandatory.

#### Permissible exposure limit (PEL)

Means the established time-weighted-average (TWA) concentration or ceiling concentration of a contaminant that must not be exceeded.

The exposure, inhalation, or dermal permissible limit specified in chapter 296-62 WAC, Part H, Air contaminants.

#### Personal protective equipment (PPE)

Protective items designed to be worn by the user to protect them against airborne, skin contact and other hazards. This includes items such as respiratory protection, protective suits, gloves, eye protection, etc.

#### Postemergency response

The stage of the emergency response where the immediate threat from the release has been stabilized or eliminated, and cleanup of the site has started.

#### Published exposure level

Exposure limits published in "National Institute for Occupational Safety and Health (NIOSH) Recommendations for Occupational Safety and Health" (DHHS publication #92-100, 1992).

If an exposure limit is not published by NIOSH, then "published exposure level" means the exposure limits published by the American Conference of Governmental Industrial Hygienists (ACGIH) in "TLVs and BEIs-Threshold Limit Values for Chemical Substances and Physical Agents" (1999 edition).

Note:

Additional exposure levels published by recognized organizations such as the American Industrial Hygiene Association are not required to be observed by this rule; however, they may be a useful resource when a hazardous substance is not covered by NIOSH and ACGIH publications.

#### Release

A spill, leak, or other type of hazardous substance discharge.

#### Uncontrolled release

A release where significant safety and health risks could be created. Releases of hazardous substances that are either incidental or could not create a safety or health hazard (i.e., fire, explosion or chemical exposure) are not considered to be uncontrolled releases.

Examples of conditions that could create a significant safety and health risk:

- Large-quantity releases
- Small releases that could be highly toxic
- Airborne exposures that could exceed a WISHA permissible exposure limit or a published exposure limit and employees are not adequately trained or equipped to control the release.

#### Example of an uncontrolled release:

A forklift driver knocks over a container of a solvent-based liquid, releasing the contents onto the warehouse floor. The driver has been trained to recognize the vapor is flammable and moderately toxic when inhaled. The driver has not been trained or provided appropriate equipment to address this type of spill. In this situation, it is not safe for the driver to attempt a response. The driver needs to notify someone of the release so an emergency response can be initiated.

#### Workplace

· A fixed facility

OF

• A temporary location (such as a traffic corridor)

• Locations where employees respond to emergencies.

### WSR 02-11-149 PERMANENT RULES DEPARTMENT OF ECOLOGY

[Order 02-08—Filed May 22, 2002, 11:28 a.m.]

Date of Adoption: May 21, 2002.

Purpose: This rule making will repeal chapter '173-222 WAC, Wastewater discharge permit fees, which has Mready been replaced by chapter 173-224 WAC, Wastewater discharge permit fees. Chapter 173-222 WAC is outdated and is no longer used by the department.

Citation of Existing Rules Affected by this Order: Repealing chapter 173-222 WAC.

Statutory Authority for Adoption: Chapter 90.48 RCW, Water pollution.

Adopted under notice filed as WSR 02-07-099 on March 20, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 12.

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Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 21, 2002 Linda Hoffman for Tom Fitzsimmons Director

#### **REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 173-222-010	Purpose and authority.
WAC 173-222-015	Applicability.
WAC 173-222-020	Definitions.
WAC 173-222-030	Discharge categories.
WAC 173-222-040	Complexity factors.
WAC 173-222-050	Permit fees.
WAC 173-222-060	Permit fee payment.
WAC 173-222-070	Periodic review.
WAC 173-222-080	Public notice.
WAC 173-222-090	Public hearings.
WAC 173-222-100	Agency initiated modifications.
WAC 173-222-110	Appeals.

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#### WSR 02-11-001 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-88-Filed May 1, 2002, 1:49 p.m.]

Date of Adoption: April 30, 2002. Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900A; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to eliminate premature harvest of catchable trout dedicated to the "Fishing Kids" event that will be stocked on May 3, 2002. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

April 30, 2002 Evan Jacoby for Jeff Koenings Director

#### **NEW SECTION**

WAC 232-28-61900I Exceptions to statewide rules—Columbia Park Pond. (Benton County) Notwithstanding the provisions of WAC 232-28-619, effective 8:00 a.m. May 3, 2002 through 9:00 a.m. May 4, 2002 it is unlawful to fish in those waters of Columbia Park Pond.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 1, 2002:

WAC 232-28-61900A

Exceptions to statewide rules—Columbia Park Pond. (02-60)

# WSR 02-11-003 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-95—Filed May 1, 2002, 3:49 p.m., effective May 2, 2002, 6:00 a.m.]

Date of Adoption: May 1, 2002.

Purpose: Amend commercial use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100Q; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets second period of treaty Indian spring season commercial fishery. The fishery catches are expected to remain within the allocation and guidelines of the 2001 management agreement and will be consistent with the biological opinion. Rule is consistent with action of the Columbia River compact on April 30, 2002. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 2, 2002, 6:00 a.m.

May 1, 2002
Jeff Koenings
Director
by Larry Peck

#### **NEW SECTION**

WAC 220-32-05100Q Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Wind River, White Salmon River and the Klickitat River except those individuals possessing

treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

- 1) Open Periods: 6:00 a.m. May 2 to 6:00 p.m. May 4, 2002
  - a) Open Areas: SMCRA 1F, 1G, 1H
  - b) Gear: Gillnets No mesh restriction
- 2) Open Periods: 6:00 a.m. May 2 to 6:00 p.m. May 4, 2002
- a) Open Areas: SMCRA 1F, 1G, 1H, Wind River, White Salmon River, Klickitat River
- b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line.
- 3) Allowable sale includes: salmon, shad, and carp. Sturgeon between 4 feet and 5 feet in length may be kept for subsistence purposes. Fish caught from platforms and hook and line fisheries may be sold.
- 4) There will be no sanctuary in effect at Spring Creek National Fish Hatchery.
- 5) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:
- a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.
- b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.
- c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.
- d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.
- e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".
- f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.
- g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.
- h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to

- a marker located approximately 1/2 mile upstream from the eastern shoreline.
- 6) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:
- a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.
- b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.
- c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. May 4, 2002:

WAC 220-32-05100Q

Columbia River salmon seasons above Bonneville Dam.

# WSR 02-11-006 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-94—Filed May 2, 2002, 1:19 p.m., effective May 5, 2002, 12:01 a.m.]

Date of Adoption: May 1, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-28500C and 232-28-61900H; and amending WAC 220-56-285 and 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The upriver spring Chinook run size has been upgraded to 293,000 and impacts to ESA listed spring Chinook are available to reopen the fishery, under the guidelines of the 2001 management agreement. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 5, 2002, 12:01 a.m.

May 1, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-56-28500C Shad—Areas and seasons. Notwithstanding the provisions of WAC 220-56-285, effective 12:01 a.m. May 5, 2002 through 11:59 p.m. May 8, 2002, it is lawful to take, fish for, or possess shad in those waters of the Columbia River downstream from Bonneville Dam.

#### **NEW SECTION**

WAC 232-28-61900J Exceptions to statewide rules—Columbia River Notwithstanding the provisions of WAC 232-28-619:

- (1) Effective 12:01 a.m. May 5, 2002 until 11:59 p.m. May 8, 2002, it is lawful to fish for and possess adipose finclipped spring chinook in those waters of the Columbia River from Buoy 10 upstream to 600 feet below the fish ladder at Bonneville Dam.
- (a) Daily limit: Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped, minimum size 12 inches in length.
- (2) Effective immediately until 11:59 p.m. May 15, 2002, it is lawful to fish for and possess adipose fin-clipped spring chinook in those areas listed below.
- (a) The Bonneville Reservoir upstream from the Tower Island power lines. Waters upstream from the Interstate Bridge (Highway 197) to The Dalles Dam are closed except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.
  - (b) The Dalles Reservoir.
  - (c) John Day Reservoir.
- (d) Daily limit: Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped, minimum size 12 inches in length.
- (3) Effective 12:01 a.m. May 5, 2002 through 11:59 p.m. May 8, 2002 it is lawful to fish for and possess trout in those

waters of the Columbia River from Bonneville Dam to Buoy 10.

- (a) Daily limit two trout minimum size 12 inches in length. Release wild steelhead. Release wild cutthroat below Bonneville Dam.
- (4) Effective immediately until further notice it is lawful to fish for and possess trout in those waters of the Columbia River of The Bonneville Reservoir upstream from the Tower Island power lines; The Dalles and John Day Pools. Waters upstream from the Interstate Bridge (Highway 197) to The Dalles Dam are closed except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.
- (a) Daily limit two trout minimum size 12 inches in length. Release wild steelhead. Release wild cutthroat below Bonneville Dam

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 5, 2002:

WAC 232-28-61900H

Exceptions to statewide rules—Columbia River. (02-86)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 9, 2002:

WAC 220-56-28500C

Shad—Areas and seasons.

#### WSR 02-11-012 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-97—Filed May 3, 2002, 4:10 p.m., effective May 11, 2002, 12:01 a.m.]

Date of Adoption: 'May 3, 2002.
Purpose: Amend personal use rules.

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Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000Q; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Test results show that adequate clams are available for harvest in Razor Clam Areas 2 and 3. Washington Department of Health has certified clams from this beach to be safe for human consumption. There in insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 11, 2002, 12:01 a.m.

May 3, 2002
J. P. Koenings
Director
by Larry Peck

#### **NEW SECTION**

WAC 220-56-36000Q Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, 3, or except as provided for in this section:

(1) Effective 12:01 a.m. May 11 through 11:59 a.m. May 11, 2002, razor clam digging is allowed in Razor Clam Area 2. Digging is allowed from 12:01 a.m. to 11:59 a.m. only.

- (2) Effective 12:01 a.m. May 11 through 11:59 a.m. May 11, 2002, razor clam digging is allowed in that portion of Razor Clam Area 3 that is between the Grays Harbor North Jetty and the Copalis River. Digging is allowed from 12:01 a.m. to 11:59 a.m. only.
- (3) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:00 noon May 11, 2002:

WAC 220-56-36000Q Razor clams—Areas and seasons.

# WSR 02-11-013 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-96-Filed May 3, 2002, 4:13 p.m.]

Date of Adoption: May 3, 2002. Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500U; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of spot shrimp has been taken in the areas closed under this rule. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 3, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-56-32500V Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325 or WAC 220-56-310:

- 1) Effective immediately, until further notice, it is unlawful to harvest or possess shrimp taken for personal use in all waters of Marine Area 9 and all waters of Marine Area 10
- 2) It is unlawful to fish for or possess shrimp from those waters of Hood Canal south of the Hood Canal floating bridge except as provided for in this section:
- (1) Fishing for shrimp is allowed between 9:00 a.m. and 1:00 p.m. on the following dates: May 18, 22, 25, and 29, 2002.
- (2) No shrimp fishers may set gear before 9:00 a.m. or leave shrimp fishing gear in the water after 1:00 p.m. each day of the fishery.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500U Shrimp—Areas and seasons. (02-80)

### WSR 02-11-014 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-83—Filed May 3, 2002, 4:15 p.m., effective May 20, 2002, 3:00 p.m.]

Date of Adoption: May 3, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-03000S; and amending WAC 220-33-030.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation sets the standard shad commercial fishery in the lower Columbia River. Harvestable numbers of shad are expected in 2002. This rule is consistent with actions of the Columbia River compact hearing of January 31, 2002, and is consistent with requirements of the ESA. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 20, 2002, 3:00 p.m.

May 3, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-33-03000S Commercial shad—Columbia River. Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for or possess shad taken for commercial purposes except as provided for in this section:

FISHING PERIODS

Area: Area 2S

Dates: Daily, 3:00 p.m. to 10:00 p.m. from:

May 20 - May 24, 2002 May 28 - May 31, 2002 June 3 - June 7, 2002 June 10 - June 14, 2002 June 17 - June 21, 2002

June 24 - June 28, 2002

Gear: Single-wall, unslackened, floater gill net, with breaking strength of less than 10 pounds.

Mesh size: 5 3/8 inches to 6 1/4 inches.

The net may not exceed 150 fathoms in length nor 40 meshes in depth.

Allowable Sale: During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective 10:01 p.m. June 28, 2002:

WAC 220-33-02000S

Commercial shad—Columbia River.

#### WSR 02-11-020 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-89-Filed May 6, 2002, 4:40 p.m.]

Date of Adoption: May 6, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-315.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to be consistent with management intent and the language in sport fishing pamphlet and allow crawfish fishers to set and pull crawfish pots at night. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 6, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-56-31500B Crawfish—Lawful acts. Notwithstanding the provisions of WAC 220-56-315, effective immediately until further notice it is lawful to set or pull crawfish pots from a vessel in all state freshwaters from one hour after official sunset to one hour before official sunrise.

#### WSR 02-11-039 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-99-Filed May 8, 2002, 10:50 a.m.]

Date of Adoption: May 6, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-28500C, 232-28-61900J and 232-28-61900K; and amending WAC 220-56-285 and 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The upriver spring Chinook run size has been upgraded to 309,000 and sufficient impacts to ESA-listed spring Chinook remain on the preseason guideline to extend the fishery through May 15, 2002. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 6, 2002 J. P. Koenings Director

#### **NEW SECTION**

WAC 220-56-28500D Shad—Areas and seasons. Notwithstanding the provisions of WAC 220-56-285, effective immediately until further notice, it is lawful to take, fish for, or possess shad in those waters of the Columbia River downstream from Bonneville Dam.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-28500C Shad—Areas and seasons. (02-94)

#### **NEW SECTION**

WAC 232-28-61900K Exceptions to statewide rules—Columbia River Notwithstanding the provisions of WAC 232-28-619:

- (1) Effective immediately through 11:59 p.m. May 15, 2002, it is lawful to fish for and possess adipose fin-clipped spring chinook in those waters of the Columbia River from Buoy 10 upstream to 600 feet below the fish ladder at Bonneville Dam.
- (a) Daily limit: Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped, minimum size 12 inches in length.
- (2) Effective immediately through 11:59 p.m. May 15, 2002, it is lawful to fish for and possess adipose fin-clipped spring chinook in those areas listed below.
- (a) The Bonneville Reservoir upstream from the Tower Island power lines. Waters upstream from the Interstate Bridge (Highway 197) to The Dalles Dam are closed except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.
  - (b) The Dalles Reservoir.
  - (c) John Day Reservoir.
- (d) Daily limit: Six chinook, no more than two of which may be adults, and all of which must be adipose fin-clipped, minimum size 12 inches in length.
- (3) Effective immediately through 11:59 p.m. May 15, 2002 it is lawful to fish for and possess trout in those waters of the Columbia River from Bonneville Dam to Buoy 10.
- (a) Daily limit two trout minimum size 12 inches in length. Release wild steelhead.

Release wild cutthroat below Bonneville Dam.

(4) Effective immediately through 11:59 p.m. May 15, 2002 it is lawful to fish for and possess trout in those waters of the Columbia River of The Bonneville Reservoir upstream from the Tower Island power lines; The Dalles and John Day Pools. Waters upstream from the Interstate Bridge (Highway 197) to The Dalles Dam are closed except that bank fishing is

permitted up to the downstream navigation lock wall on the Washington shore.

(a) Daily limit two trout minimum size 12 inches in length. Release wild steelhead.

Release wild cutthroat below Bonneville Dam.

Effective Date of Rule: Immediately.

May 6, 2002 J. P. Koenings Director

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900J

Exceptions to statewide rules—Columbia River. (02-94)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 16, 2002:

WAC 232-28-61900K

Exceptions to statewide rules—Columbia River.

#### WSR 02-11-040 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-100—Filed May 8, 2002, 10:51 a.m.]

Date of Adoption: May 6, 2002. Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Q; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Large numbers of adult hatchery origin spring Chinook are returning to these systems. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

#### **NEW SECTION**

WAC 232-28-61900L Exceptions to statewide rules—Little White Salmon River, (Drano Lake), Wind River. Notwithstanding the provisions of WAC 232-28-619:

- (1) Cowlitz River Effective immediately until further notice, those waters of the Cowlitz River from Mill Creek to Barrier Dam fishing from south side of river is prohibited.
- (2) Little White Salmon River (Drano Lake) Effective immediately through June 30, 2002, it is lawful to fish for and possess salmonids in those waters of the Little White Salmon River (Drano Lake) downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge. Night closures and nonbuoyant lures restriction are in effect. Closed to all fishing on Wednesdays effective immediately through May 29, 2002. Effective immediately through May 8, special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or combination of one such salmon and one such steelhead. Effective May 9 through June 30, 2002, special four fish daily limit of chinook salmon and hatchery steelhead of which no more than two may be hatchery steelhead. Chinook minimum size is 12 inches. Hatchery steelhead minimum size is 20 inches.
- (3) Klickitat River Effective immediately through May 29, 2002, it is lawful to fish for salmonids in those waters of the Klickitat River from mouth to Fisher Hill Bridge special daily limit of one chinook salmon greater than 12 inches in length or one hatchery steelhead greater than 20 inches in length. Open only on Mondays, Wednesdays and Saturdays. Night closures and nonbuoyant lures restrictions in effect.
- (4) Wind River Effective immediately through June 30, 2002 it is lawful to fish for and possess salmonids in those waters of the Wind River from markers (bouy line) at the mouth upstream to 400 feet downstream from Shipherd Falls, from 100 feet above Shipherd Falls to 400 feet below the Coffer Dam and from 100 feet above the Coffer Dam to 800 yards downstream from the fishway at Carson National Fish Hatchery. Night closures and nonbuoyant lures restriction are in effect. Effective immediately through May 8, special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or combination of one such salmon and one such steelhead. Effective May 9 through June 30, 2002 special four fish daily limit of chinook salmon and hatchery steelhead of which no more than two may be hatchery steelhead. Chinook minimum size is 12 inches. Hatchery steelhead minimum size is 20 inches.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900Q

Exceptions to statewide rules—Cowlitz River, Little White Salmon River, (Drano Lake), Klickitat River, Wind River. (02-28)

# WSR 02-11-041 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-104—Filed May 8, 2002, 11:28 a.m., effective May 12, 2002, 9:00 p.m.]

Date of Adoption: May 7, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500V; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of spot shrimp has been taken in the areas closed under this rule. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0, Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 12, 2002, 9:00 p.m.

May 7, 2002
J. P. Koenings
Director
by Larry Peck

#### **NEW SECTION**

WAC 220-56-32500W Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325 or WAC 220-56-310:

- 1) Effective 9:00 p.m., May 12, 2002, it is unlawful to harvest or possess shrimp taken for personal use in all waters of Marine Areas 8-1 and 8-2.
- 2) Effective immediately, until further notice, it is unlawful to harvest or possess shrimp taken for personal use in all waters of Marine Area 9 and all waters of Marine Area 10
- 3) It is unlawful to fish for or possess shrimp from those waters of Hood Canal south of the Hood Canal floating bridge except as provided for in this section:
- (1) Fishing for shrimp is allowed between 9:00 a.m. and 1:00 p.m. on the following dates: May 18, 22, 25, and 29, 2002
- (2) No shrimp fishers may set gear before 9:00 a.m. or leave shrimp fishing gear in the water after 1:00 p.m. each day of the fishery.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500V

Shrimp—Areas and seasons. (02-96)

# WSR 02-11-042 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-103—Filed May 8, 2002, 11:30 a.m.]

Date of Adoption: May 7, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000J; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules were adopted by the Pacific Fisheries Management Council, and provide for harvest of available stocks of bottom fish, while reserving brood stock for future fisheries. There is insufficient time to promulgate permanent rules and to provide for a fishery.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 7, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-44-05000K Coastal bottom fish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice: (1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port bottom fish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes, or in violation of any gear, handling or landing requirement, established by the Pacific Fisheries Management Council and published in the Federal Register, Volume 67, No. 88, published May 7, 2002. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at (360) 902-2930.

- (2) At the time of landing of coastal bottom fish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket, in the space reserved for dealer's use, all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.
- (3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottom-fish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving

ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000J

Coastal bottomfish catch limits. (02-61)

# WSR 02-11-043 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-101—Filed May 8, 2002, 11:32 a.m.]

Date of Adoption: May 7, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-03000R; and amending WAC 220-52-030.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Willapa Spits have readily supported a six week fishery since 1989. Annual reported harvest has averaged about 30,000 pounds. The fishery provides an important supply of crab bait to the local Dungeness crab industry and depending on size and condition of the clams, a fresh market restaurant trade. Based on historical catches and on site inspection, there should be adequate clams to support a six-week season. Biotoxin levels currently fall below the regulatory threshold. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 7, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-52-03000R Commercial razor clams. Notwithstanding the provisions of WAC 220-52-030, effective immediately until further notice, it is unlawful to dig for or possess razor clams taken for commercial purposes from Washington waters except as provided for in this section:

(1) Effective 12:01 a.m. May 12, 2002 through June 30, 2002, it is lawful to dig for and possess razor clams for commercial purposes in those waters and beaches of Razor Clam Area One lying south of the Willapa Bay Ship Channel, west of Ellen Sands and north of the tip of Leadbetter Point.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective July 1, 2002:

WAC 220-52-03000R Commercial razor clams.

### WSR 02-11-045 EMERGENCY RULES UNIVERSITY OF WASHINGTON

[Filed May 9, 2002, 10:08 a.m.]

Date of Adoption: May 6, 2002.

Purpose: To amend WAC 478-116-131 regarding parking fees for the University of Washington's commencement events at the Seattle campus.

Citation of Existing Rules Affected by this Order: Amending WAC 478-116-131.

Statutory Authority for Adoption: RCW 28B.10.560 and 28B.20.130.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The amended parking regulation is necessary to reflect a change from not charging parking fees for the University of Washington's commencement events to charging attendees for parking as a prepaid special event. Previously, the university's commencement budget covered the costs associated with managing the parking and

transportation system for commencement. However, increasing costs and constrained resources have necessitated generating revenue from parking to cover costs associated with parking and traffic management, including staffing, printing, a shuttle bus system, and cost associated with traffic police. Amending WAC 478-116-131 is required to make this change prior to commencement events in June 2002, however, there is insufficient time to complete the promulgation of a permanent amendment to the rule, except as an emergency.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

May 6, 2002 Richard L. McCormick President

AMENDATORY SECTION (Amending WSR 97-14-005, filed 6/19/97, effective 9/15/97)

WAC 478-116-131 Parking for events and other university functions. (1) Parking for attendees to events that may displace regular parking customers or that may require added parking services staffing shall be accommodated only if parking services can find suitable alternatives for regular parking customers. Parking fees will be charged as follows:

- (a) ((Freshman convocation and university commencement and related graduation functions.)) Parking for attendees at freshman convocation will be complimentary. Parking services will charge the cost of staff and services used expressly for the event to the sponsoring department;
- (b) An event rate will be charged to attendees of events that require staffing to collect fees; and
- (c) Parking services shall negotiate the cost of prepurchased parking and alternative transportation for Husky football with the department of intercollegiate athletics.
- (2) Parking services may lease available parking facilities to sponsors of events, who shall pay in advance and be charged at a per stall fee for the particular leased facility.
- (3) Parking services may extend its hours of operations to encompass the hours of an event. The following conditions shall trigger charging for events scheduled outside the normal hours of operation:

- (a) Any activity which in the judgment of parking services is expected to attract over five hundred vehicles to campus; or
- (b) Any event requiring a city of Seattle special event permit.
- (4) University departments which sponsor functions such as athletic events, conferences, seminars and dinners may arrange for parking of their guests and this parking will be provided on a space available basis. Departments have the option of paying for guests' parking. Otherwise, their guests will be responsible for the parking fee. To facilitate prepaid parking and with parking services' prior approval, departments may act as its agent in the collection of parking fees.
- (5) Parking services may displace permit holders from their regularly assigned areas during special events. Permit holders shall be provided an alternate area assignment during special events at no extra charge.

# WSR 02-11-049 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-102-Filed May 9, 2002, 1:53 p.m.]

Date of Adoption: May 8, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100R; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets third period of treaty Indian spring season commercial fishery. The upriver run size has been upgraded to 309,000. The fishery catches are expected to remain within the allocation and guidelines of the 2001 management agreement and will be consistent with the biological opinion. Rule is consistent with action of the Columbia River compact on May 8, 2002. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 8, 2002 J. P. Koenings Director

#### **NEW SECTION**

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Wind River, White Salmon River and the Klickitat River except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

- 1) Open Periods: 6:00 a.m. May 10 to 6:00 p.m. May 11, 2002
  - 21
  - a) Open Areas: SMCRA 1F, 1G, 1H
  - b
  - c) Gear: Gillnet No mesh restriction
- 2) Open Periods: 6:00 a.m. May 10 to 6:00 p.m. May 11, 2002
  - 3)
- a) Open Areas: SMCRA 1F, 1G, 1H, Wind River, White Salmon River, Klickitat River
- b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line.
- 1) Allowable sale includes: salmon, shad, and carp. Sturgeon between 4 feet and 5 feet in length may be kept for subsistence purposes. Fish caught from platforms and hook and line fisheries may be sold.
- 2) There will be no sanctuary in effect at Spring Creek National Fish Hatchery.
- 3) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:
- a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.
- b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.
- c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from

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the eastern shoreline to one mile downstream from the western shoreline.

- d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.
- e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".
- f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.
- g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.
- h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.
- 6) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:
- a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.
- b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.
- c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. May 11, 2002:

WAC 220-32-05100R

Columbia River salmon seasons above Bonneville Dam.

#### WSR 02-11-050 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-105—Filed May 9, 2002, 1:55 p.m., effective May 19, 2002, 6:00 a.m.]

Date of Adoption: May 9, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000H; and amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency regulation is necessary to continue the closures for softshell crab and allocation from the previous emergency rule. In addition, the opening of Marine Area 12 on May 19, 2002, is possible because crab meet hardshell criteria and there is quota remaining in the recreational harvest share. This opening is on selected days through June 1, 2002, to avoid complications of sport shrimp catch estimation during the Hood Canal shrimp fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 19, 2002, 6:00 a.m.

May 9, 2002 J. P. Koenings Director

#### **NEW SECTION**

WAC 220-56-33000I Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, it is unlawful to fish for crab for personal use except as provided herein:

- (1) Effective immediately until further notice, it is unlawful to fish for crab for personal use in all Puget Sound waters of Marine Areas 4, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 13.
- (2) Effective 6:00 a.m. May 19, 2002 through May 31, 2002, it is lawful to fish for crab for personal use in Marine

Area 12 except on Wednesdays and Saturdays. All crab gear must be removed from the water by 7:00 p.m. each Tuesday and Friday during this period.

(3) Effective 12:01 a.m. June 1, 2002 until further notice, it is lawful to fish for crab for personal use in Marine Area 12 seven days per week.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. May 19, 2002:

WAC 220-56-33000H Crab—Areas and seasons. (02-67)

### WSR 02-11-052 EMERGENCY RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration) [Filed May 9, 2002, 3:49 p.m.]

Date of Adoption: May 8, 2002.

Purpose: Federal rules require the department to disregard any income from a new source that a destitute household expects to receive after the date of application. The current WAC excludes income from a new source that the household expects to receive only during the ten days after application. This amendment will allow destitute households to receive the food assistance benefits to which they are entitled.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0230.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Other Authority: 7 C.F.R. 273.10 (e)(3).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The current WAC donflicts with federal regulations and is adversely affecting a significant number of the department's neediest families by denying them the means to a nutritious diet at the point of their greatest need.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

May 8, 2002 Brian H. Lindgren, Manager Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-24-008, filed 11/19/99, effective 1/1/00)

WAC 388-450-0230 ((Treatment of income in the month of application for destitute)) What income does the department count in the month I apply for food assistance ((households:)) when my assistance unit is destitute? (1) ((When a migrant or seasonal farm worker is determined)) If your assistance unit (AU) is destitute under WAC 388-406-0021, ((eligibility and benefit amount for the month of application is determined by)) we may exclude some of your income in the month you apply for food assistance.

- (2) In the month of application, we:
- (a) ((Counting the household's income that is received from)) Count only income received between the first of the month ((through the date of application;)) and the date you apply for food assistance.
- (b) ((Excluding)) <u>Disregard any</u> income from a new source that ((the household expects)) you expect to receive ((during the ten days)) after the date ((of application)) you apply for food assistance.
- (((2) A household member changing jobs but continuing to work for the same employer is considered to be receiving income from the same source.))

### WSR 02-11-068 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-106—Filed May 10, 2002, 4:58 p.m., effective May 16, 2002]

Date of Adoption: May 10, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900M; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An abundant return of spring chinook salmon is forecast for the Columbia River during the year 2002. This abundance of fish will ensure that brood stock escapement goals are met at the Carson and Little White Salmon hatcheries. In addition approximately 12,000 spring chinook salmon are predicted to return to the Icicle River ensuring that the Leavenworth National Fish Hatchery

will be able to collect the 1,000 fish needed for brood stock. The remaining salmon in the Icicle River will be available for harvest by both the Yakima Indian Nation and nontribal anglers. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 16, 2002.

May 10, 2002 J. P. Koenings Director

#### **NEW SECTION**

WAC 232-28-61900M Exceptions—Icicle River (Chelan County). Notwithstanding the provisions of WAC 220-57-290, effective May 16, 2002 through July 31, 2002 it is lawful to fish for salmon in those waters of the Icicle River from 500 feet downstream of the Leavenworth Hatchery to the mouth. Daily limit two salmon greater than 12 inches in length. Night closure and non-buoyant lure restrictions in effect.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed one hour after official sunset on July 31, 2002:

WAC 232-28-61900M

Exceptions—Icicle River (Chelan County).

### WSR 02-11-071 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-107—Filed May 13, 2002, 3:44 p.m., effective May 17, 2002, 8:00 a.m.]

Date of Adoption: May 13, 2002. Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900N; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule will eliminate premature harvest of catchable trout dedicated to the "Fishing Kids" events that will be stocked on May 17, 2002. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 17, 2002, 8:00 a.m.

May 13, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 232-28-61900N Exceptions to statewide rules—Sarge Hubbard Park Pond (Yakima County). Notwithstanding the provisions of WAC 232-28-619, effective 8:00 a.m. May 17 through 9:00 a.m. May 18, 2002, it is unlawful to fish in those waters of Sarge Hubbard Park Pond.

#### υτι <u>REPEALER</u>

The following section of the Washington Administrative Code is repealed effective 9:01 a.m. May 18, 2002:

WAC 232-28-61900N

Exceptions to statewide rules—Sarge Hubbard Park Pond (Yakima County).

#### WSR 02-11-085 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-109—Filed May 16, 2002, 4:00 p.m., effective May 17, 2002, 6:00 a.m.]

Date of Adoption: May 16, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100S; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets forth period of treaty Indian spring season commercial fishery. The upriver run size has been updated to 303,000. The fishery catches are expected to remain within the allocation and guidelines of the 2001 management agreement and will be consistent with the biological opinion. Rule is consistent with action of the Columbia River compact on May 15, 2002. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 17, 2002, 6:00 a.m.

May 16, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-32-05100S Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Wind River, White Salmon River and the Klickitat River except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions, pursuant to lawfully enacted tribal rules:

1) Open Periods: 6:00 a.m. May 17 to 6:00 p.m. May 18, 2002

- a) Open Areas: SMCRA 1F, 1G, 1H b) Gear: Gillnet - No mesh restriction
- 2) Open Periods: 6:00 a.m. May 17 to Noon May 29, 2002
- a) Open Areas: SMCRA 1F, 1G, 1H, Wind River, White Salmon River, Klickitat River
- b) Gear: hoop nets, dip bag nets, and rod and reel with hook and line.
- 3) Open Periods: 9:00 p.m. May 21 to Noon May 22, 2002

9:00 p.m. May 28 to Noon May 29, 2002

- a) Open Areas: Drano Lake
- b) Gear: Floating gillnets not longer than 150 feet, hoop nets fished from bank or boat, or hook and line with bait or lures. All other types of gear and methods are prohibited. Snagging and gaffing of fish and driftnetting are prohibited.
- 4) Allowable sale includes: salmon, shad, and carp. Sturgeon between 4 feet and 5 feet in length may be kept for subsistence purposes. Fish caught from platforms and hook and line fisheries may be sold.
- 5) There will be no sanctuary in effect at Spring Creek National Fish Hatchery.
- 6) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:
- a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.
- b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.
- c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.
- d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline
- e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".
- f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.
- g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

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- h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.
- 7) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:
- a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.
- b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.
- c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. May 29, 2002:

WAC 220-32-05100S

Columbia River salmon seasons above Bonneville Dam.

## WSR 02-11-086 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-111-Filed May 16, 2002, 4:00 p.m.]

Date of Adoption: May 16, 2002. Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-19500I, 232-28-61900Q, 232-28-62000D and 232-28-62100G; and amending WAC 220-56-195, 232-28-619, 232-28-620, and 232-28-621.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These are interim personal use rules that will be effective until the permanent rules resulting from the North of Falcon proceeding take effect on August 2,

2002. The department is in the process of adopting the permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 0, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 16, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-56-19500I Closed saltwater salmon areas—2002 North of Falcon. Notwithstanding the provisions of WAC 220-56-195:

- (1) Effective July 1, 2002, it is lawful to fish for salmon in all of Carr Inlet, except unlawful to fish for salmon within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek.
- (2) Effective August 1, 2002, it is lawful to retain salmon during open periods in waters of Areas 4 and 5 southerly of a line from Kydaka Point to Shipwreck Point.
- (3) Effective July 1, 2002, until further notice waters of Area 6 within 1,000 feet of the mouth of the Elwah River are closed to salmon angling.
- (4) Effective immediately until further notice waters of Area 8-29 east of a line from Mission Point to Hermosa Point are closed to salmon angling.

#### **NEW SECTION**

WAC 232-28-61900Q Exceptions to statewide rules—2002 North of Falcon. Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions:

- (1) Baker River (Skagit County) Mouth to Highway 20 Bridge closed through August 31, 2002.
- (2) Cispus River (Lewis County) Release wild chinook through July 31.
  - (3) Columbia River -
- (a) Buoy 10 Line to Rocky Point-Tongue Point Line August 1 until further notice salmon daily limit two fish, both of which may be chinook.
- (b) Rocky Point-Tongue Point Line to I-5 Bridge May 16 through July 31 release all salmon except jack chinook.

- (c) I-5 Bridge to Highway 395 Bridge June 16 through July 31 release all salmon except jack chinook.
- (4) Cowlitz River (Lewis County) Mouth to 400 feet below Mayfield Dam open to salmon. Daily limit may contain no more than one adult salmon through July 31.
- (5) Hoh River (Jefferson County) mouth to Willoughby Creek May 16 through May 31 open Wednesday through Sunday only. Game fish catch and release except up to two hatchery steelhead may be retained and daily limit may contain no more than 1 adult salmon. Effective June 1 until further notice salmon fishing allowed only Wednesday through Sunday of each week and daily limit may contain no more than 1 adult salmon.
- (6) Klickitat River (Klickitat County) From 400 feet above No. 5 fishway to boundary markers below Klickitat Salmon Hatchery closed to salmon angling through July 31, 2002
- (7) Lewis River and Lewis River North Fork (Clark County) Immediately through July 31 Daily limit six fish of which not more than one may be an adult salmon.
- (8) Nooksack River (Whatcom County) Effective August 1 until further notice nonbuoyant lures allowed.
- (9) Puyallup River (Pierce County) Effective August 1 until further notice salmon daily limit may contain no more than 1 adult chinook.
- (10) Skagit River (Skagit County) Gilligan Creek to Bacon Creek salmon fishing closed until further notice.
- (11) Skykomish River (Snohomish County) Lewis Street Bridge in Monroe to mouth of Wallace River open to salmon fishing June 1 through July 31 with a daily limit of 1 hatchery chinook.
- (12) Toutle River (Cowlitz County) August 1 until further notice lawful to retain chinook in daily limit. Release chum and wild coho in mainstem. Release wild coho in North Fork.

#### **NEW SECTION**

WAC 232-28-62000D Coastal salmon seasons—2002 North of Falcon. It is unlawful to fish for salmon in coastal waters during 2002 except as provided in this section.

- (1) Area 1:
- (a) May 25 through June 16 Daily limit 2 chinook salmon.
- (b) July 7 until further notice Open Sunday through Thursdays only, daily limit 2 salmon except release wild
  - (2) Areas 2, 2-1, and 2-2:
- (a) May 25 through June 16 Daily limit 2 chinook salmon.
- (b) June 30 until further notice open Sunday through Thursdays only, daily limit 2 salmon except release wild coho.
  - (3) Area 3:
- (a) May 25 through June 16 Daily limit 2 chinook salmon.
- (b) July 7 until further notice Daily limit 2 salmon except release wild coho.
  - (4) Area 4:

- (a) May 25 through June 16 Daily limit 2 chinook salmon.
- (b) July 7 until further notice Daily limit 2 salmon except release wild coho, release chinook east of the Bonilla-Tatoosh Line, and effective August 1 release chum.

#### **NEW SECTION**

WAC 232-28-62100G Puget Sound salmon seasons—2002 North of Falcon. It is unlawful to fish for salmon in Puget Sound during 2002 except as provide for in this section:

- (1) Area 5 July 1 until further notice Daily limit 2 salmon except release chum and wild coho. Release chinook July 1 through July 7, after July 7 daily limit may contain no more than 1 chinook.
- (2) Area 6 July 1 until further notice Daily limit 2 salmon except release chinook, chum and wild coho.
- (3) Area 7 July 1 until further notice Daily limit of 2 salmon not more than one of which may be a chinook salmon, and effective August 1 release chum and wild coho.
- (4) Area 8-1 August 1 until further notice Daily limit 2 salmon except release chinook.
  - (5) Area 8-2:
- (a) June 30 until further notice Waters adjacent to Tulalip Bay west of the closed area line, within 2,000 feet of shore, north of pilings at old Bower's Resort and south of a fishing marker 1.4 miles northwest of Hermosa Point open Friday through 11:59 a.m. the following Monday of each week. Daily limit 2 salmon.
- (b) All other waters of Area 8-2, August 1 until further notice Daily limit 2 salmon except release chinook.
- (6) Area 9 July 1 until further notice Daily limit 2 salmon except release chinook and chum.
- (a) Salmon fishing open year round from Edmonds fishing pier. Daily limit 2 salmon, not more than one of which may be a chinook salmon, Effective August 1 release chum.
- (b) Salmon fishing open year round from the Hood Canal Bridge fishing pontoon. Daily limit 2 salmon except effective July 1 release chinook and effective August 1 release chum.
- (7) Area 10 July 1 until further notice Daily limit 2 salmon except release chinook, and effective August 1 release chum.
- (a) Elliott Bay east of a line from West Point to Alki Point is closed except effective July 12 waters east of a line from Pier 91 to Duwamish Head open Friday through Sunday of each week. Release chum.
- (b) Shilshole Bay east of a line from Meadow Point to West Point is closed.
- (c) Lawful to retain chinook in waters of Sinclair Inlet and Port Orchard south of the Manette Bridge, south of a line projected true west from Battle Point, and west of a line projected true south from Point White.
- (d) Salmon fishing open year round from Elliott Bay public fishing pier, Seacrest pier, Waterman pier, Bremerton boardwalk, and Illahee State Park pier. Daily limit 2 salmon, not more than one of which may be a chinook salmon. Effective August 1 release chum.

- (e) Terminal gear restricted to bait suspended above the bottom from a float when fishing in the Duwamish Waterway as defined in WAC 232-28-621.
  - (8) Area 11:
  - (a) July 1 until further notice Daily limit 2 salmon.
- (b) Salmon fishing open year round from Les Davis public fishing pier, Des Moines public fishing pier, Redondo public fishing pier, Dash Point dock, and Point Defiance Boathouse dock. Daily limit 2 salmon, not more than one of which may be a chinook salmon.
- (9) Area 12 except waters of the Hoodsport Hatchery Zone July 1 until further notice in waters south of Ayock Point Daily limit 4 salmon, not more than two of which may be chinook, and release chum.
  - (10) Area 13:
- (a) Immediately through June 30 Daily limit 2 salmon not more than one of which may be a chinook.
- (b) July 1 until further notice Daily limit 2 salmon except release wild coho.
- (c) Carr Inlet July 1 through July 31 terminal gear restricted to fly fishing only, daily limit 2 hatchery coho.
- (d) Salmon fishing open year round from the Fox Island public fishing pier. Daily limit 2 salmon not more than one of which may be a chinook salmon and effective July 1 until further notice release wild coho.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### **REPEALER**

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. August 2, 2002:

WAC 220-56-19500I	Closed saltwater areas - 2002 North of Falcon
WAC 232-28-61900Q	Exception to statewide rules - 2002 North of Falcon
WAC 232-28-62000D	Coastal salmon seasons - 2002 North of Falcon
WAC 232-28-62100G	Puget Sound salmon seasons - 2002 North of Falcon

## WSR 02-11-094 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-110-Filed May 17, 2002, 3:02 p.m.]

Date of Adoption: May 17, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000H and 220-56-33000I; and amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency regulation is necessary to continue the closures for softshell crab and allocation from the previous emergency rule. In addition, the opening of Marine Areas 9 and 12 are possible because crab meet hardshell criteria and there is quota remaining in the recreational harvest share. This opening is on selected days through May 31, 2002, to avoid complications of sport shrimp catch estimation during the Hood Canal shrimp fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 17, 2002
J. P. Koenings
Director
by Larry Peck

#### **NEW SECTION**

WAC 220-56-33000J Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, effective immediately until further notice, it is unlawful to fish for crab for personal use in all waters of Puget Sound except as provided herein:

- (1) Effective 6:00 a.m. May 19, 2002 through May 31, 2002, it is lawful to fish for crab for personal use in Marine Area 12 except on Wednesdays and Saturdays. All crab gear must be removed from the water by 7:00 p.m. each Tuesday and Friday during this period.
- (2) Effective 12:01 a.m. June 1, 2002 until further notice, it is lawful to fish for crab for personal use in Marine Areas 9 and 12.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-56-33000H Crab—Areas and seasons. (02-67)

WAC 220-56-33000I

Crab—Areas and seasons. (02-105)

### WSR 02-11-102 EMERGENCY RULES DEPARTMENT OF ECOLOGY

[Order 0210—Filed May 20, 2002, 11:20 a.m., effective May 24, 2002]

Purpose: Law enforcement agencies within the state of Washington confiscate drugs, including controlled substances, during the course of their work. The controlled substances are kept as evidence until the case is adjudicated. When no longer needed as evidence, law enforcement agencies follow their own policies for the destruction of the controlled substances. These policies include incineration, witnessed by a law enforcement officer. There is only one waste-to-energy facility in Washington that is able to take these wastes; however its permit prohibits the burning of dangerous waste. Some controlled substances designate as dangerous wastes in the state of Washington. This conditional exclusion will make it possible for these wastes to be disposed of at the waste-to-energy facility.

Controlled substances collected by law enforcement agencies within the state of Washington must be handled according to law enforcement policy to assure consistency in handling procedures. Deviations from the policy can put the law enforcement agency at risk for liability, loss of accreditation of their evidence rooms, and may impact case development. Law enforcement agencies have limited budgets for evidence disposal and varying disposal needs. The absence of the option for incinerating controlled substances is an impediment to a necessary element of police work.

This conditional exclusion from the dangerous waste regulations applies only to wastes that are regulated as state-only dangerous waste; that is, they are not also regulated under federal hazardous waste regulations. Ecology does not have the authority to exempt from regulation any drug that is a regulated waste under federal law. The drugs that are regulated as state-only dangerous waste are regulated primarily due to their toxicity. Incineration is an appropriate method of disposal for these low volume, low toxicity wastes.

Citation of Existing Rules Affected by this Order: Amending WAC 173-303-071.

Statutory Authority for Adoption: Chapter 70.105 RCW.

Other Authority: Chapter 43.21A RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Law enforcement agencies have no in-state options for disposal of confiscated controlled substances that are state-only dangerous wastes. Due to a sudden loss of the last in-state disposal option and an ever increasing backlog in evidence rooms, law enforcement agencies need a safe, acceptable, immediately available

option to dispose of these substances. Conditional exclusion from chapter 173-303 WAC will allow for disposal outside of the requirements of dangerous waste regulation.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 24, 2002.

May 14, 2002 Linda Hoffman Deputy Director for Tom Fitzsimmons

Director

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-12 issue of the Register.

### WSR 02-11-114 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-112—Filed May 20, 2002, 4:47 p.m., effective May 23, 2002]

Date of Adoption: May 20, 2002.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900R; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2002 forecast for upriver spring chinook returning to the Snake River is 168,400, with 44,900 of that total representing wild spring chinook. There are sufficient numbers of hatchery origin fish within allowable limits for potential impacts upon wild fish to open this Snake River fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

[ 19 ]

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 23, 2002.

May 20, 2002 J. P. Koenings Director

#### **NEW SECTION**

WAC 232-28-61900R Exceptions to statewide rules—Snake River. Notwithstanding the provisions of WAC 232-28-619:

- (1) Effective May 23, 2002 through May 27, 2002 in those waters of the Snake River from the Southway Bridge crossing the Snake River at Lewiston/Clarkson upstream to the Heller Bar concrete boat ramp below the confluence of the Grande Ronde River it is lawful to fish for and possess salmon. Daily limit of one hatchery chinook salmon, minimum size 12 inches in length. Fishing hours per day are 1/2 hour before sunrise until 1 hour after sunset.
- (2) Effective May 23, 2002 through May 27, 2002 and May 30 through June 2, 2002 in those waters of the Snake River from Texas Rapids boat launch upstream to the Corps of Engineers boat launch on the south bank of the river approximately one mile upstream of Little Goose Dam it is lawful to fish for and possess salmon. Daily limit of two hatchery chinook salmon, minimum size 12 inches in length. Fishing hours per day are 1/2 hour before sunrise until 1 hour after sunset.
- (3) Anglers must use barbless hooks when fishing for chinook on the Snake River. For this fishery it shall be unlawful to use any hook larger than 5/8 inch (point of hook to shank).
- (4) During the fisheries provided for in this section, the closures in WAC 232-28-619 remain in effect.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective 1 hour after official sunset on June 2, 2002:

WAC 232-28-61900R

Exceptions to statewide rules—Snake River.

#### WSR 02-11-132 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-113—Filed May 21, 2002, 1:47 p.m.]

Date of Adoption: May 21, 2002.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000J; and amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency regulation is necessary to continue closures for softshell crab and allocation from the previous emergency rule. The described portion of Marine Area 8-2 and all of Marine Areas 9 and 12 meet the hardshell criteria for opening recreational fisheries. In addition, there is quota remaining in the recreational harvest share for Marine Areas 8-2 and 12. As of May 31, 2002, there will be quota remaining in the recreational harvest share for Marine Area 9 when the new management period begins. The opening of Marine Area 12 is on selected days through June 1, 2002, to avoid complications of sport shrimp catch estimation during the Hood Canal shrimp fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 21, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-56-33000K Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, effective immediately until further notice, it is unlawful to fish for crab for personal use in all waters of Puget Sound except as provided herein:

- (1) Effective immediately through May 31, 2002, it is lawful to fish for crab for personal use in Marine Area 12 except on Wednesdays and Saturdays. All crab gear must be removed from the water by 7:00 p.m. each Tuesday and Friday during this period.
- (2) Effective 12:01 a.m. June 1, 2002 until further notice, it is lawful to fish for crab for personal use in Marine Areas 9 and 12.
- 3) Effective 7:00 a.m. May 24, 2002 until further notice it is lawful to fish for crab for personal use on Fridays, Saturdays, Sundays, and Mondays in all of Area 8-2 except those waters of Saratoga Passage north and west of a line from Camano Head to Sandy Point.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-33000J

Crab—Areas and seasons. (02-110)

## WSR 02-11-134 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-114—Filed May 21, 2002, 3:16 p.m., effective May 23, 2002, 5:00 a.m.]

Date of Adoption: May 21, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500W; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of affule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of nonspot shrimp is available in the areas opened under this rule. Depth restrictions are needed to protect spot shrimp. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 23, 2002, 5:00 a.m.

May 21, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-56-32500X Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325 or WAC 220-56-310:

- 1) Effective 5:00 a.m., May 23, 2002, all waters of Marine Areas 8-1, 8-2 and 9 reopen to the harvest of shrimp for personal use except:
- (a) It is unlawful to possess spot shrimp and all spot shrimp must immediately be returned to the water unharmed.
- (b) It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.
- (c) It is unlawful to set or pull shrimp gear in all waters of Port Townsend Bay south and west of a line from Marrowstone Point to Point Wilson (including Kilisut Harbor).
- 2) Effective immediately, until further notice, it is unlawful to harvest or possess shrimp taken for personal use in all waters of Marine Area 10.
- 3) It is unlawful to fish for or possess shrimp from those waters of Hood Canal south of the Hood Canal floating bridge except as provided for in this section:
- (1) Fishing for shrimp is allowed between 9:00 a.m. and 1:00 p.m. on the following dates: May 25 and 29, 2002.
- (2) No shrimp fishers may set gear before 9:00 a.m. or leave shrimp fishing gear in the water after 1:00 p.m. each day of the fishery.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed effective 5:00 a.m. May 23, 2002:

WAC 220-56-32500W Shrimp—Areas and seasons. (02-104)

## WSR 02-11-146 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-115—Filed May 22, 2002, 10:59 a.m., effective May 23, 2002, 6:00 p.m.]

Date of Adoption: May 22, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100S, 220-32-05500E and 220-32-05700P; and amending WAC 220-32-055 and 220-32-057.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The tribal fishery has exceeded the preseason allocation for upriver spring chinook in the commercial and subsistence fisheries, based on the current run size forecast of 292,000. Retention of adipose finclipped spring chinook with dip net, dip bag net and hook and line gear only will be allowed to help evaluate the use of selective fishing techniques in the tribal fishery with these gear types. The fishery is authorized for a limited time period and the additional impact to listed chinook is expected to be insignificant. Opens Bonneville and The Dalles pools for a sturgeon set line season. There is room on the guidelines in both areas to allow for a season, and harvestable numbers of sturgeon are available. Conforms state rules with tribal rules. Consistent with compact action of May 21, 2002. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 23, 2002, 6:00 p.m.

May 22, 2002 J. P. Koenings Director by Larry Peck

#### **NEW SECTION**

WAC 220-32-05500E Off-reservation Indian subsistence fishing. Notwithstanding the provisions of WAC 220-32-055, effective 6:00 p.m. May 23, 2002 through 6:00 a.m. June 1, 2002, it is unlawful for those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties to retain chinook salmon taken from the Columbia River for subsistence purposes except

adipose fin-clipped salmon with a healed scar at the site. Legal gear is dipnet, dip bag net, and hook and line only.

#### **NEW SECTION**

WAC 220-32-05700P Columbia River sturgeon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

- 1) Dates: 6:00 a.m. June 1, 2002 until 6:00 p.m. August 17, 2002.
  - 2) Open area is 1F and 1G.
- 3) During the season specified in Section 1, it is unlawful to:
- a) retain for commercial purposes sturgeon less than 48 inches or greater than 60 inches in length.
- b) sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter RCW 77.65, or to sell or barter sturgeon eggs at retail.
- c) deliver to a wholesale dealer licensed under chapter RCW 77.65 any sturgeon that are not in the round with the head and tail intact.
- 4) During the season specifies in Section 1, it is unlawful to use set line gear:
  - a) with more than 100 hooks per set line
  - b) with hooks less than the minimum size of 9/0
  - c) with treble hooks
- d) without visible buoys attached and with buoys that do not specify operator and tribal identification

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. May 23, 2002:

WAC 220-32-05100S

Columbia River salmon seasons above Bonneville Dam. (02-109)

The following section of the Washington Administrative Code is repealed effective 6:01 a.m. June 1, 2002:

WAC 220-32-05500E

Off-reservation Indian subsistence fishing.

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. August 17, 2002:

WAC 220-32-05700P

Columbia River sturgeon seasons above Bonneville Dam.

Emergency [ 22 ]

#### WSR 02-11-002 OFFICE OF INSURANCE COMMISSIONER

[Filed May 1, 2002, 2:00 p.m.]

TECHNICAL ASSISTANCE ADVISORY T 02-03

It has come to our attention that some level premium term life products that convert automatically to attained age rated plans at the end of the term have been approved by this office without age restrictions while other similar products have been specifically disapproved. This creates a competitive disadvantage for those companies that had similar products disapproved.

To remedy this situation, this office will accept filings for term life products on the basis that these policies continue into the attained age rated plan, subject to the following conditions:

- The period of level premium rates does not exceed thirty years.
- The age at conversion into the plan with premium rates based on attained age does not exceed eighty.
- For risks rated standard or better when the policy is issued, the attained age premium rates do not exceed 200% of the 1980 CSO mortality table rates.
- For risks rated standard or better when the policy is issued, policies that allow attained age premium rates in excess of 100% of the 1980 CSO mortality table rates shall state the risk class of the insured in tandem with the level premium period. For example, if the insured's risk class is "preferred nonsmoker" for a level premium twenty year term policy, all references in the policy to "preferred nonsmoker" shall include in substance the expression "for twenty years."

These standards will apply to form filings received on or after the issue date of this TAA and to any previously approved forms when subsequent changes are filed with this office.

For specific questions and answers and additional information, please contact Jill Morgan by phone at (360) 664-3798 or e-mail JillM@oic.wa.gov or go to our website at www.insurance.wa.gov.

### WSR 02-11-004 NOTICE OF PUBLIC MEETINGS WHATCOM COMMUNITY COLLEGE

[Memorandum-May 1, 2002]

The board of trustees of Whatcom Community College, District Number Twenty-One, has rescheduled its regular meeting of Tuesday, May 7, 2002. The rescheduled meeting will be held on Tuesday, May 28, 2002. The trustees will begin the meeting with a study session from 12:00 p.m. until 2:00 p.m. to review the college's proposed 2002-2003 operating budget.

# WSR 02-11-005 NOTICE OF PUBLIC MEETINGS WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD

[Memorandum-May 1, 2002]

At the March 28, 2002, the Workforce Training and Education Coordinating Board meeting, the following changes were made to the board's meeting locations for 2002.

Thursday, July 25, 2002 - Retreat
Friday, July 26, 2002 - Retreat
(Northwest Laborers, Employers Training Trust
Fund Site, Kingston, Washington)
Tuesday, October 1, 2002 - Dinner
Wednesday, October 2, 2002 - Meeting
(Department of Information Services,
Forum Building, Olympia, Washington)
Wednesday, November 20, 2002 - Meeting
(Department of Information Services,
Forum Building, Olympia, Washington)

If you have questions, please call Caroline Haggard at [(360) 75]3-5677.

#### WSR 02-11-009 NOTICE OF PUBLIC MEETINGS BELLINGHAM TECHNICAL COLLEGE

[Memorandum—May 3, 2002]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, May 16, 2002, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

# WSR 02-11-015 INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed May 3, 2002, 4:18 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: PCM 02-003.

Subject: Processing referrals on cases that belong in another field office.

Effective Date: March 11, 2002.

Document Description: This notice explains to DCS staff how to process referrals that arrive in one field office that will eventually be worked by a different field office.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-

[1] Miscellaneous

5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

May 1, 2002 Stephanie E. Schiller

## WSR 02-11-016 INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed May 3, 2002, 4:20 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: PCM 02-004.

Subject: Changes to DCS public disclosure rules, effec-

tive Friday, April 19, 2002.

Effective Date: April 19, 2002.

Document Description: This notice explains to DCS staff how the new DCS public disclosure rules affect current DCS practices.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

May 1, 2002 Stephanie E. Schiller

## WSR 02-11-017 INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed May 3; 2002, 4:22 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 02-18 MAA. Subject: Pricing updates to prescription drug program.

Effective Date: June 1, 2002.

Document Description: The purpose of this memorandum is to provide reimbursement updates to the Medical Assistance Administration's (MAA) prescription drug program, effective June 1, 2002.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website http://maa.dshs.wa.gov (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

April 30, 2002 E. A. Myers, Manager Rules and Publications Section

## WSR 02-11-018 INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed May 3, 2002, 4:23 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 02-14 MAA. Subject: Budget restrictions for major trauma enhanced payments.

Effective Date: April 9, 2002.

Document Description: On April 4, 2002, the Medical Assistance Administration suspended making major trauma enhanced payments until July 1, 2003, except for ambulance services. This suspension will first be reflected on the April 15, 2002, remittance and status report (RA). Providers will continue to receive the regular reimbursements for any medical assistance clients. Distribution of this biennium's funds has been made.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website http://maa.dshs.wa.gov (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

May 2, 2002 E. A. Myers, Manager Rules and Publications Section

#### WSR 02-11-036 RULES COORDINATOR ENVIRONMENTAL HEARINGS OFFICE

[Filed May 8, 2002, 8:00 a.m.]

I am proud to announce Eric Lucas, an Administrative Appeals Judge, is the new rules coordinator for the Environmental Hearings Office.

Eric's phone number is (360) 459-6332. His e-mail address is Ericl@eho.wa.gov. Our facsimile number is (360) 438-7699.

Robert V. Jensen Director

### WSR 02-11-046 NOTICE OF PUBLIC MEETINGS HEALTH CARE AUTHORITY

(Public Employees Benefits Board) [Memorandum—May 8, 2002]

Following is a **revised** 2002 Public Employees Benefits Board (PEBB) meeting schedule for publication in the Washington State Register.

### PUBLIC EMPLOYEES BENEFITS BOARD 2002 Meeting Schedule

Date	Location	Time
January 29, 2002 CANCELLED	Health Care Authority 676 Woodland Square Loop S.E., Room E402 Lacey, WA	1:00-3:30 p.m.
February 21, 2002	Health Care Authority 676 Woodland Square Loop S.E., Room E402 Lacey, WA	9:00-11:30 a.m.
March 19, 2002 CANCELLED	Health Care Authority 676 Woodland Square Loop S.E., Lacey, WA	
April 23, 2002	Academy Classroom Forum Building 605 East 11th Olympia, WA	1:00-3:30 p.m.
May 21, 2002 CANCELLED	Health Care Authority 676 Woodland Square Loop S.E., Lacey, WA	
July 30, 2002	Forum Building 605 East 11th Olympia, WA	1:00-3:30 p.m.
August 6, 2002	Academy Classroom Forum Building 605 East 11th Olympia, WA	1:00-3:30 p.m.
October 22, 2002 (Planning Session Retreat)	ТВА	1:00-3:30 p.m.
November 26, 2002	Teleconference	1:00-3:30 p.m.

If you are a person with a disability and need a special accommodation, please contact Shelley Westall at (360) 923-2829.

Please contact Cyndi Presnell at 923-2802, if you have any questions or need further information.

WSR 02-11-047

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NOTICE OF PUBLIC MEETINGS

COMMISSION ON
SUPREME COURT REPORTS

[Memorandum—May 8, 2002]

The Commission on Supreme Court Reports will meet at 10:00 a.m. on Wednesday, June 26, in the Chief Justice's Reception Room in the Temple of Justice, Olympia, Washington. The meeting should be over by noon.

Issues before the commission include the current publishing contract with LEXIS Publishing Company and the electronic publication and citation of Washington case law.

Please contact Tim Fuller if you have any questions or concerns regarding the commission or the June 26th meeting. My telephone number is (360) 357-2090, my e-mail address is tim.fuller@courts.wa.gov.

### WSR 02-11-053 POLICY STATEMENT DEPARTMENT OF HEALTH

[Filed May 9, 2002, 4:28 p.m.]

The Washington State Department of Health, Division of Environmental Health Programs, Office of Food Safety and Shellfish has a revised policy titled, "Voluntary Water Sampling for Growing Area Classifications."

This policy establishes procedures to allow a licensed shellfish operation, or a person seeking a shellfish operation, to collect some of the water samples for the initial or continued classification of a shellfish growing area. This policy has been in effect for several years, but this revision expands to include "continued" classification, not just initial classifications of a shellfish growing area. This policy applies only to water samples collected for microbiological analyses of fecal coliform bacteria. Participation in sampling marine water is strictly voluntary.

For further information, please contact Bob Woolrich, Growing Area Manager, at (360) 236-3329 or e-mail bob.woolrich@doh.wa.gov.

Jennifer Tebaldi Office Director

# WSR 02-11-055 NOTICE OF PUBLIC MEETINGS COUNTY ROAD ADMINISTRATION BOARD

[Memorandum—May 8, 2002]

COUNTY ROAD ADMINISTRATION BOARD

MEETING NOTICE: July 11, 2002

County Road Administration Board 2404 Chandler Court S.W., Suite 240

Olympia, WA 98504 1:00 p.m. to 5:00 p.m.

PUBLIC HEARING: July 11, 2002

County Road Administration Board 2404 Chandler Court S.W., Suite 240

Olympia, WA 98504 2:00 p.m.

MEETING NOTICE: July 12, 2002

County Road Administration Board 2404 Chandler Court S.W., Suite 240

Olympia, WA 98504 9:00 a.m. to 12:00 p.m.

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Cheryl Heinemeyer at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

If you have questions, please contact Cheryl Heinemeyer at (360) 753-5989.

[3] Miscellaneous

### WSR 02-11-087 NOTICE OF PUBLIC MEETINGS PIERCE COLLEGE

[Memorandum-May 13, 2002]

Per Resolution 2001-31, Pierce College board of trustees 2002 regular meeting schedule, the board of trustees of Community College District Number Eleven announces their regular June meeting as follows. This meeting is open to the public.

Meeting DateTimeSunday, June 23:00 p.m.Monday, June 31:00 p.m.

Sleeping Lady Conference Center 7575 Icicle Road

Leavenworth, WA 98826

#### WSR 02-11-088 NOTICE OF PUBLIC MEETINGS STATE BOARD OF EDUCATION

[Memorandum-May 2, 2002]

Please note the following changes to the dates of State Board of Education scheduled meetings (in bold/italics).

May 15-17, 2002

Lake Quinault Lodge 345 South Shore Road Quinault, WA 98575 (360) 288-2900

June 20-21, 2002 Senate Hearing Room 4 John A. Cherberg Building 304 15th Avenue S.W. Olympia, WA 98504

August 21-23, 2002 Enumclaw School District Board Room 2929 McDougall Avenue

Enumclaw, WA 98022-7499

(360) 802-7100

October 23-25, 2002

Educational Service District 113 601 McPhee Road S.W. Olympia, WA 98502 (360) 586-2933

# WSR 02-11-089 NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum-May 15, 2002]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on **Tuesday**, **May 21**, **2002**, at **2:00 p.m.** in Room 208, of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

# WSR 02-11-091 NOTICE OF PUBLIC MEETINGS DEPARTMENT OF INFORMATION SERVICES

(State Interoperability Executive Committee)
[Memorandum—May 15, 2002]

Per the Public Information Act, the following meeting date has been rescheduled: The June 6, 2002, State Interoperability Executive Committee meeting, has been rescheduled to June 12, 2002, from 10:30 a.m. - noon, in the Department of Information Services boardroom located in the Forum Building, 605 East 11th Avenue, Olympia, WA.

For further information, please contact Laurel McMillan at (360) 902-3566.

### WSR 02-11-099 INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF LICENSING

dto [Filed May 20, 2002, 10:40 a.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: The Roles and Duties of Qualified Agent.

Subject: Bail bond agents statute chapter 18.185 RCW.

Document Description: Defines duties and roles of qualified agents.

To receive a copy of the interpretive or policy statement, contact the Department of Licensing, Bail Bond Agent Program, P.O. Box 9649, Olympia, WA 98506, phone (360) 664-6624, or go to our web site at http://www.wa.gov/dol/bpd/bbfront.htm or e-mail to mhaglund@dol.wa.gov.

May 20, 2002 Alan E. Rathbun Assistant Director

Miscellaneous

[4]

### WSR 02-11-103 DEPARTMENT OF ECOLOGY

[Filed May 20, 2002, 11:21 a.m.]

#### NOTICE OF PUBLIC COMMENT PERIOD AND PUBLIC WORK-SHOPS

#### **DRAFT 303(d) LISTING POLICY**

The water quality program of the Department of Ecology (ecology) is seeking public comment on draft revisions to Program Policy 1-11, Assessment of Water Quality for the Section 303(d) List.

Section 303(d) of the federal Clean Water Act requires Washington state periodically to prepare a list of all surface waters in the state for which beneficial uses of the water such as for drinking, recreation, aquatic habitat, and industrial use - are impaired by pollutants. This list was last prepared in 1998. Ecology is now beginning the process to prepare the 2002 list.

Ecology's assessment of which waters to place on the 303(d) list is guided by federal laws, state water quality standards, and the state's 303(d) policy. This policy describes how the standards are applied, requirements for the data used, and how to prioritize TMDLs, among other issues.

This policy was last used to guide the 303(d) assessment in 1998. An updated policy has been prepared in response to new guidance from the U.S. Environmental Protection Agency, and to better refine and explain the assessment process. Significant changes in the updated policy since 1998 include:

- New categories to better reflect conditions and circumstances of different waters.
- Extended waterbody segments, to address data collected across segment boundaries.
- Changes in data quality assurance requirements.
- More detailed explanation of the assessment process and criteria.
- Changes in how the water quality standards are applied to temperature, dissolved oxygen, and some other pollutants.

The draft policy can be found at. www.ecy.wa.gov/programs/wq/303d/index.html. Paper copies are also available. The deadline for public comments is 5:00 p.m., Monday, July 8, 2002. Please submit comments in writing to the address below, or at any of the public workshops.

Ecology will host public workshops in eight cities across Washington to discuss the draft updated 303(d) policy. Ecology staff will explain the draft policy and the full 303(d) assessment process, and the public will have an opportunity to ask questions and informally share their thoughts with ecology staff and other participants. Participants should also formally submit any comments they have in writing.

The workshops will be held twice each day: 2:00-4:00 p.m. and 6:00-8:00 p.m. Each workshop will be the same, so it is only necessary to attend one. The public workshops will be held in the following cities:

City	Date	Location
Spokane	June 5	Spokane County Cooperative Extension, Room E, North 222 Havana Street
Yakima	June 6	Department of Ecology, Central Region Office, 15 West Yakima Avenue, Suite 200
Vancouver	June 10	Department of Ecology, Vancouver Field Office, 2108 Grand Boulevard
Wenatchee	June 12	Wenatchee Valley College, Wells Hall, Campus Theater, 1300 Fifth Street
Walla Walla	June 13	Walla Walla Community College, Main Building, Room 185A, 500 Tausick Way
Bellevue	June 19	Department of Ecology, Northwest Region Office, 3190 160th Avenue S.E.
Bellingham	June 20	Bellingham Public Library, 210 Central Avenue
Lacey	June 27	Department of Ecology, Head- quarters/Southwest Region Office, 300 Desmond Drive

To receive a paper copy of the draft updated 303(d) policy, submit comments on it, find out more about the 303(d) list, or ask any other question about this process, please contact Matthew Green, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail 303d@ecy.wa. gov, phone (360) 407-6386.

May 14, 2002 Megan White, P.E. Program Manager Water Quality Program

#### WSR 02-11-111 NOTICE OF PUBLIC MEETINGS SKAGIT VALLEY COLLEGE

[Memorandum-May 14, 2002]

At the May 13, 2002, board meeting, the Skagit Valley College board of trustees voted to change the date, time and location of the regular June board meeting from June 13, 1:00 p.m. at Friday Harbor to June 10, 5:00 p.m., 2405 East College Way, Mount Vernon in the board room.

[5] Miscellaneous

## WSR 02-11-112 NOTICE OF PUBLIC MEETINGS LAKE WASHINGTON TECHNICAL COLLEGE

[Memorandum—May 15, 2002]

Pursuant to RCW 42.30.075, we are hereby notifying you of the following <u>amended</u> date when the Lake Washington Technical College board of trustees is scheduled to hold regular meetings during 2002.

### Instead of holding a meeting on June 3, 2002, the board of trustees will meet on Monday, June 17, 2002.

Appropriate advertising of this meeting change will take place ten days prior to the meeting. Work sessions begin at 6 p.m. in Room W302E at the college; the regular meeting agenda begins at 7 p.m. in Room W305 at the college located at 11605 132nd Avenue N.E., Kirkland, WA 98034.

#### WSR 02-11-113 NOTICE OF PUBLIC MEETINGS WASHINGTON STATE LIBRARY

(Library Commission)
[Memorandum—May 16, 2002]

The Washington State Library Commission meeting scheduled for June 5, 2002, has been changed to June 6, 2002. The location of the meeting is at the Washington State Library, 6880 Capitol Way South, Olympia, WA. It will take place at 1:30 on the fourth floor of the library in Room 413.

If there are any questions, please call Patricia Davis at (360) 704-5249.

#### WSR 02-11-115 NOTICE OF PUBLIC MEETINGS EASTERN WASHINGTON UNIVERSITY

[Memorandum-May 21, 2002]

Eastern Washington University BOARD OF TRUSTEES ANNOUNCEMENT

of

**Special Board Meeting** 

and

May Committee Meetings May 17 and May 28, 2002 Eastern Washington University 526 5th Street Cheney, WA 99004

The committees of the board of trustees of Eastern Washington University will be meeting according to the following schedules. A quorum of the board may be present at these meetings, the purpose of which is to discuss university business prior to the board of trustees meeting scheduled for June 21, 2002.

A special meeting of the board of trustees will be held at 1:30 p.m. in PUB 265-7. The purpose of this meeting is to delegate authority to the president to execute construction contracts and to act on faculty contracts that will require action prior to the June 21 board of trustees meeting.

Academic Affairs Com-	May 17	10:30 - 1:30	PUB 265-267
mittee		p.m.	
Special Board of Trustees	May 17	1:30 - 2:00	PUB 265-267
Meeting		p.m.	
Student Affairs Commit-	May 17	2:00 - 5:00	PUB 311
tee		p.m.	
<b>Business and Finance</b>	May 28	6:00 - 9:00	PUB 261
Committee		p.m.	

#### WSR 02-11-117 DEPARTMENT OF ECOLOGY

[Filed May 21, 2002, 11:06 a.m.]

Department of Ecology
Public Notice of National Pollutant
Discharge Elimination System (NPDES)
General Permit Issuance for Nuisance Plant and Algae
Control

### Ecology to Issue an Aquatic Pesticide General Permit June 5, 2002

On June 5, 2002, ecology will issue a general permit for aquatic pesticide applications made throughout the state. The general permit will provide coverage for the application of herbicides to control nuisance weeds and algae in surface waters of the state of Washington. The use of herbicides and algaecides is subject to the provisions of integrated pest management plans (IPMs) and further restricted in salmonid bearing waters. Monitoring is required and conducted by permittees.

Ecology issued the draft general permit for public review on April 3, 2002 through a notice to the state Register and a direct mailing to over four hundred recipients including potential permittees, agencies with jurisdiction or interest in aquatic pest control, tribes, environmental groups and other interested parties. Ecology held public workshops followed by hearings for the permit on May 14, at Ecology Headquarters, 600 Desmond Drive, Olympia, and on May 30 at the Spokane Shadle Library.

The public comment period ended on May 30. The final permit and fact sheet will include a response to comments received during the public comment period. Copies of the final permit documents can be obtained through ecology's WebPages http://www.ecy.wa.gov/programs/wq/herbicides/npdes\_develp.html or by contacting Kathleen Emmett, Aquatic Pest Control Permit Lead, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail kemm461@ecy.wa.gov.

Appeal Procedures: Pursuant to RCW 43.21.B.310 [43.21B.310] the terms or conditions of this permit may be appealed before July 5, 2002. An appeal may be filed with the Pollution Control Hearings Board, P.O. Box 40903,

Olympia, WA 98504-0903 within thirty days from the effective date of the permit. In addition, a copy of the appeal must be served on the Department of Ecology, P.O. Box 47696, Olympia, WA 98504-7696.

All applicants who submitted a complete application to ecology during the public comment period will be covered under the permit on its effective date. The terms and conditions of a general permit, as they apply to an individual discharger, are appealable with[in] thirty days of the effective date in accordance with chapter 43.21B RCW. This appeal is limited to the general permit's applicability or nonapplicability to a specific discharger.

Questions or requests for more information can be directed to Kathleen Emmett at the above addresses or call her at (360) 407-6478.

## WSR 02-11-124 INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed May 21, 2002, 11:19 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 220.

Subject: Currency exchange for the Euro.

Effective Date: May 7, 2002.

Document Description: This notice explains to the Division of Child Support staff how to exchange different currencies into Euros for debt calculation purposes.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

May 14, 2002 Stephanie E. Schiller

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#### WSR 02-11-135 DEPARTMENT OF AGRICULTURE

[Filed May 21, 2002, 3:30 p.m.]

#### **LEGAL NOTICE**

The Washington State Department of Agriculture (WSDA) Laboratory Services Division is hereby notifying the affected public that the herbicide Rodeo® (glyphosate), surfactant (R-11, X-77 or LI-700) and marker dyes may be used between June 15, 2002, and October 31, 2002. Properly licensed pesticide applicators who have obtained coverage under a WSDA National Pollutant Discharge Elimination System Waste Discharge General Permit may apply Rodeo® to control the noxious weed *Spartina* on the saltwater tideflats of Grays Harbor, Hood Canal, Willapa Bay, Puget Sound, and the north and west sides of the Olympic Peninsula.

Use of the herbicide Rodeo® is one of the options used to control *Spartina*. These infestations may also be treated by mowing, digging or covering.

For more information, including locations of possible application sites, contact the WSDA *Spartina* Control Program at (360) 902-1923 or (360) 902-1853. Or write: WSDA *Spartina* Program, P.O. Box 42560, Olympia, WA 98504-2560. The Washington State Department of Ecology 24-hour emergency/spill response hotline is (425) 649-7000 (northwest region) or (360) 407-6300 (southwest region).

#### WSR 02-11-147 NOTICE OF PUBLIC MEETINGS LOWER COLUMBIA COLLEGE

[Memorandum—May 17, 2002]

Instead of their regularly scheduled meeting in July 2002, the board of trustees of Lower Columbia College will be holding an all-day workshop July 17, 2002, beginning at 9:00 a.m. at the residence of Gary Healea, located at 650 Smith Road, Toutle, WA.

#### WSR 02-11-150 DEPARTMENT OF ECOLOGY

[Filed May 22, 2002, 11:32 a.m.]

### Fiscal Year 2003 Total Maximum Daily Load (TMDL) Priority List

Public Comments Invited on Water Cleanup List: The Washington Department of Ecology (ecology) wants your comments on a list of priority waterbodies that we have tentatively chosen for water cleanup planning during the next year. Ecology organizes water cleanup efforts through geographic areas called water quality management areas (WQMAs). Each WQMA is made up of one or more water resource inventory areas (WRIAs) or watersheds. We choose individual waterbodies or watersheds in each of our four regions yearly. To help us select these waters we met with local groups in communities within the WQMAs last fall.

The criteria for making these selections included the severity of the pollution, potential harm to human and aquatic health, impaired beneficial uses, such as agriculture, drinking water and fish habitat, and the potential for local support for water cleanup activities. In addition, the presence of threatened and endangered fish species significantly influenced our choices.

The water cleanup list will be finalized in July. Ecology reviews and responds to your comments by August 2002.

Please address your comments on the above priority list by June 28, 2002, to Ron McBride, Ecology, P.O. Box 47600, Olympia, WA 98504-7600, rmcb461@ecy.wa.gov, phone (360) 407-6469, or fax (360) 407-6426.

The entire list of water bodies we chose from can be viewed on our website: http://www.wa.gov/ecology/wq/303d/.

Miscellaneous

The following pages contain the proposed list of water bodies we plan to begin work on in 2003. The list shows each water body and the parameters of concern. The last page lists definitions of pollution problems.

\*The projects shown below are the best estimate of our capacity at this time. Ecology's budget has yet to be set for

the next biennium. Actual fiscal and staffing levels may result in fewer projects. In addition, as we are working in a geographic region (WRIA), projects may be expanded into additional waterbodies if we find they need work.

**New FY2003 Funded TMDL Projects** 

Regional Office	WRIA	Primary Location	Waterbody(s) Name	Pollution Problems
CRO	39		Wilson/Cooke Creeks	Fecal Coliform (bacteria)
ERO	54-57	Spokane County	Spokane River	Total dissolved gas; Temperature; PCB
NWRO	15	Kitsap County	Sinclair-Dyes Inlet tributaries	Fecal Coliform
SWRO	13	Thurston County	Budd Inlet-Capitol Lake-Deschutes River	Dissolved Oxygen; Phosphorus; pH; Fecal Coliform; Temperature; PCB
CRO/ERO	Numerous	Numerous	Columbia/Snake Rivers	Total Dissolved Gas

WRIAs (Water Resource Inventory Area) are large watersheds

TMDL projects that may be started if additional funds become available

Regional Office	WRIA	Primary Location	Waterbody(s) Name	Pollution Problems	Remarks
CRO	49	Okanogan County	Okanogan River	Temperature	Contingent on BPA grant
SWRO	27	Clark/Skamania Counties	East Fork Lewis River	Temperature	Contingent on BPA grant

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**Definitions of Pollution Problems:** Although not necessarily agents of disease, <u>fecal coliform</u> bacteria indicate the presence of disease-carrying organisms, which live in the same environment as the fecal coliform bacteria.

A certain minimum amount of <u>dissolved oxygen</u> must be present in water for aquatic life to survive.

<u>Temperature</u> is important because it governs the kinds of aquatic life that can live in a stream.

**<u>pH</u>** is a term used to indicate the alkalinity or acidity of a substance as ranked on a scale from 1.0 to 14.0. Neutral pH is 7.0. Acidity increases as the pH gets lower.

**PCB** - Highly persistent organic chemicals used primarily in electrical equipment (e.g. transformers). Banned from production in mid-1970s. Accumulates in fish tissue.

**Phosphorus** serves as a nutrient or "fertilizer" for algae and aquatic plants. Too much algae cause aesthetic problems and reduce oxygen levels in lakes and streams.

<u>Total Dissolved Gas (TDG)</u> - high levels of TDG, air bubbles entrained in water, can harm fish.

010 010

#### KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

#### Symbols:

AMD = Amendment of existing section
A/R = Amending and recodifying a section
DECOD = Decodification of an existing section
NEW = New section not previously codified

OBJECT = Notice of objection by Joint Administrative Rules Review Committee

PREP = Preproposal comments
RE-AD = Readoption of existing section

RECOD = Recodification of previously codified section

REP = Repeal of existing section
RESCIND = Rescind of existing section

REVIEW = Review of previously adopted rule SUSP = Suspending an existing section

#### Suffixes:

-C = Continuance of previous proposal

-E = Emergency action-P = Proposed action-S = Supplemental notice

-W = Withdrawal of proposed action

-X = Expedited rule making -XA = Expedited adoption

-XR = Expedited repeal No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR#	WAC#	ACTION	WSR#	_  WAC#	ACTION	WSR#
4- 25-410	AMD	02-04-064	16-154-080	REP-P	02-04-109	16-157-250	NEW-P	02-04-109
4- 25-520	AMD	02-04-064	16-154-090	REP-P	02-04-109	16-157-250	NEW	02-10-090
4- 25-540	AMD	02-04-064	16-154-100	REP-P	02-04-109	16-157-255	NEW-P	02-04-109
4- 25-610	AMD	02-04-064	16-154-110	REP-P	02-04-109	16-157-255	NEW	02-10-090
4- 25-610	PREP	02-11-007	16-154-120	REP-P	02-04-109	16-157-260	NEW-P	02-04-109
4- 25-620	AMD	02-04-064	16-154-180	REP-P	02-04-109	16-157-260	NEW	02-10-090
4- 25-626	AMD	02-04-064	16-156-003	REP-P	02-04-109	16-157-270	NEW-P	02-04-109
4- 25-630	AMD	02-04-064	16-156-004	REP-P	02-04-109	16-157-270	NEW	02-10-090
4- 25-631	AMD	02-04-064	16-156-005	REP-P	02-04-109	16-157-275	NEW-P	02-04-109
4- 25-640	AMD-W	02-04-062	16-156-010	REP-P	02-04-109	16-157-275	NEW	02-10-090
4- 25-640	PREP	02-04-063	16-156-020	REP-P	02-04-109	16-157-280	NEW-P	02-04-109
4- 25-660	AMD	02-04-064	16-156-030	REP-P	02-04-109	16-157-280	NEW	02-10-090
4- 25-710	PREP	02-04-063	16-156-035	REP-P	02-04-109	16-157-290	NEW-P	02-04-109
4- 25-710	AMD	02-04-064	16-156-040	REP-P	02-04-109	16-157-290	NEW	02-10-090
4- 25-720	AMD	02-04-064	16-156-050	REP-P	02-04-109	16-158-010	REP-P	02-04-109
4- 25-721	AMD	02-04-064	16-156-060	REP-P	02-04-109	16-158-020	REP-P	02-04-109
4- 25-730	AMD	02-04-064	16-156-070	REP-P	02-04-109	16-158-027	REP-P	02-04-109
4- 25-735	NEW	02-04-064	16-157	AMD-C	02-07-117	. 16-158-028	REP-P	02-04-109
4- 25-745	AMD	02-04-064	16-157-010	NEW-P	02-04-109	16-158-030	REP-P	02-04-109
4- 25-746	AMD	02-04-064	16-157-010	NEW	02-10-090	16-158-040	REP-P	02-04-109
4- 25-750	AMD	02-04-064	16-157-020	NEW-P	02-04-109	16-158-050	REP-P	02-04-109
4- 25-752	NEW	02-04-064	16-157-020	NEW	02-10-090	16-158-060	REP-P	02-04-109
4- 25-756	NEW	02-04-064	16-157-030	NEW-P	02-04-109	16-158-080	REP-P	02-04-109
4- 25-783	AMD	02-04-064	16-157-030	NEW	02-10-090	16-158-090	REP-P	02-04-109
4- 25-790	AMD	02-04-064	16-157-100	NEW-P	02-04-109	16-158-100	REP-P	02-04-109
4- 25-791	AMD	02-04-064	16-157-100	NEW	02-10-090	16-158-110	REP-P	02-04-109
4- 25-792	AMD	02-04-064	16-157-110	NEW-P	02-04-109	16-158-120	REP-P	02-04-109
4- 25-793	NEW	02-04-064	16-157-110	NEW	02-10-090	16-158-130	REP-P	02-04-109
4- 25-795	AMD	02-04-064	16-157-120	NEW-P	02-04-109	16-158-135	REP-P	02-04-109
4- 25-820	AMD	02-04-064	16-157-120	NEW	02-10-090	16-158-150	REP-P	02-04-109
4- 25-830	AMD	02-04-064	16-157-200	NEW-P	02-04-109	16-162-010	REP-P	02-04-109
4- 25-910	AMD	02-04-064	16-157-200	NEW	02-10-090	16-162-025	REP-P	02-04-109
16-104	PREP	02-06-050	16-157-210	NEW-P	02-04-109	16-162-030	REP-P	02-04-109
16-154-010	REP-P	02-04-109	16-157-210	NEW	02-10-090	16-162-034	REP-P	02-04-109
16-154-030	REP-P	02-04-109	16-157-220	NEW-P	02-04-109	16-162-036	REP-P	02-04-109
16-154-040	REP-P	02-04-109	16-157-220	NEW	02-10-090	16-162-037	REP-P	02-04-109
16-154-050	REP-P	02-04-109	16-157-230	NEW-P	02-04-109	16-162-040	REP-P	02-04-109
16-154-053	REP-P	02-04-109	16-157-230	NEW	02-10-090	16-162-045	REP-P	02-04-109
16-154-060	REP-P	02-04-109	16-157-240	NEW-P	02-04-109	16-162-050	REP-P	02-04-109
16-154-070	REP-P	02-04-109	16-157-240	NEW	02-10-090	16-162-070	REP-P	02-04-109
				f 1 1		-		Table

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Table

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
16-162-100	REP-P	02-04-109	16-302-545	PREP	02-05-083	16-470-810	NEW-E	02-07-120
16-164-010	REP-P	02-04-109	16-302-685	PREP	02-05-083	16-470-810	NEW	02-09-099
16-164-020	REP-P	02-04-109	16-302-685	AMD-P	02-09-059	16-470-820	NEW-P	02-06-13
16-164-035	REP-P	02-04-109	16-303-200	PREP	02-03-127	16-470-820	NEW-E	02-07-120
16-164-037	REP-P	02-04-109	16-303-200	AMD-P	02-09-060	16-470-820	NEW	02-09-09
16-164-040	REP-P	02-04-109	16-303-210	PREP	02-03-127	16-470-830	NEW-P	02-06-13
16-164-050	REP-P	02-04-109	16-303-210	AMD-P	02-09-060	16-470-830	NEW-E	02-07-12
16-164-055	REP-P	02-04-109	16-303-230	PREP	02-03-127	16-470-830	NEW	02-09-09
16-164-060	REP-P	02-04-109	16-303-230	AMD-P	02-09-060	16-470-840	NEW-P	02-06-13
16-164-070	REP-P	02-04-109	16-303-250	PREP	02-03-127	16-470-840	NEW-E	02-07-12
16-164-080	REP-P	02-04-109	16-303-250	PREP	02-05-083	16-470-840	NEW	02-09-09
16-164-085	REP-P	02-04-109	16-303-250	AMD-P	02-09-060	16-470-850	NEW-P	02-06-13
16-164-090	REP-P	02-04-109	16-303-300	PREP	02-03-127	16-470-850	NEW-E	02-07-12
16-164-100	REP-P	02-04-109	16-303-300	AMD-P	02-09-060	16-470-850	NEW	02-09-09
16-164-110	REP-P	02-04-109	16-303-310	PREP	02-03-127	16-470-860	NEW-P	02-06-13
16-228-1231	AMD	02-04-041	16-303-310	AMD-P	02-09-060	16-470-860	NEW-E	02-07-12
16-228-1235	NEW-E	02-06-048	16-303-317	PREP	02-03-127	16-470-860	NEW	02-09-09
16-228-1235	NEW-P	02-07-080	16-303-317	AMD-P	02-09-060	16-470-870	NEW-P	02-06-13
16-228-1235	NEW-C	02-11-070	16-303-320	PREP	02-03-127	16-470-870	NEW-E	02-07-12
16-228-12351	NEW-E	02-06-048	16-303-320	AMD-P	02-09-060	16-470-870	NEW	02-09-09
16-228-12351	NEW-P	02-07-080	16-303-330	PREP	02-03-127	16-484-210	AMD-P	02-08-08
16-228-12351	NEW-C	02-11-070	16-303-330	AMD-P	02-09-060	16-484-220	AMD-P	02-08-08
16-228-12352	NEW-E	02-06-048	16-303-340	AMD	02-05-082	16-484-230	AMD-P	02-08-08
16-228-12352	NEW-P	02-07-080	16-319-041	AMD	02-05-081	16-484-240	AMD-P	02-08-08
16-228-12352	NEW-C	02-11-070	16-324	PREP	02-03-132	16-484-250	AMD-P	02-08-08
16-228-1237	NEW-E	02-06-048	16-324-361	AMD-P	02-08-087	16-484-260	AMD-P	02-08-08
16-228-1237	NEW-P	02-07-080	16-324-375	AMD-P	02-08-087	16-489-010	NEW-P	02-10-12
16-228-1237	NEW-C	02-11-070	16-324-398	AMD-P	02-08-087	16-489-020	NEW-P	02-10-12
16-228-12371	NEW-E	02-06-048	16-324-401	AMD-P	02-08-087	16-489-030	NEW-P	02-10-12
16-228-12371	NEW-P	02-07-080	16-324-431	AMD-P	02-08-087	16-489-040	NEW-P	02-10-12
16-228-12371	NEW-C	02-11-070	16-324-720	AMD-P	02-08-087	16-489-050	NEW-P	02-10-12
16-228-1238	NEW-P	02-07-080	16-324-730	AMD-P	02-08-087	16-489-060	NEW-P	02-10-12
16-228-1238	NEW-C	02-11-070	16-324-740	AMD-P	02-08-087	16-489-070	NEW-P	02-10-12
16-301-025	PREP	02-05-083	16-324-750	AMD-P	02-08-087	. 16-532-020	AMD-P	02-06-13
16-301-025	AMD-P	02-09-059	16-325-015	AMD-X	02-04-020	16-532-025	NEW-P	02-06-13
16-301-045	PREP	02-05-083	16-325-015	AMD	02-09-030	16-532-040	AMD-P	02-06-13
16-301-045	AMD-P	02-09-059	16-400-045	AMD-X	02-09-012	16-555-020	AMD-P	02-06-12
16-301-050	PREP	02-05-083	16-403-141	AMD-P	02-07-118	16-557-010	REP-C	02-09-00
16-301-050	AMD-P	02-09-059	16-403-142	AMD-P	02-07-118	16-557-010	REP-W	02-11-08
16-302-091	PREP	02-05-083	16-403-190	PREP	02-03-128	16-557-020	REP-C	02-09-00 02-11-08
16-302-091	AMD-P	02-09-059	16-403-190	AMD-P	02-07-118	16-557-020	REP-W	
16-302-125	PREP	02-05-083	16-403-280	AMD-P	02-07-118	16-557-025	REP-C REP-W	02-09-00 02-11-08
16-302-125	AMD-P	02-09-059	16-462-015	AMD-P	· 02-08-085	16-557-025		02-11-0
16-302-142	NEW-P	02-09-059	16-462-015	AMD	02-11-100	16-557-030	REP-C REP-W	02-09-00
16-302-250	PREP	02-05-083	16-462-020	AMD-P	02-08-085	16-557-030		02-11-0
16-302-250	AMD-P	02-09-059	16-462-020	AMD	02-11-100	16-557-040	REP-C	
16-302-260	PREP	02-05-083	16-462-021	AMD-P	02-08-085	16-557-040	REP-W	02-11-08 02-09-0
16-302-260	AMD-P	02-09-059	16-462-021	AMD	02-11-100	16-557-041	REP-C	02-09-00
16-302-330	PREP	02-05-083	16-462-022	AMD-P	02-08-085	16-557-041	REP-W	02-11-0
16-302-330	AMD-P	02-09-059	16-462-022	AMD	02-11-100	16-557-050	REP-C REP-W	02-09-0
16-302-385	PREP	02-05-083	16-462-025	AMD-P	02-08-085	16-557-050		02-11-0
16-302-385	AMD-P	02-09-059	16-462-025	AMD	02-11-100	16-557-060	REP-C	02-09-0
16-302-390	PREP	02-05-083	16-462-030	AMD-P	02-08-085	16-557-060	REP-W REP-C	02-11-0
16-302-390	AMD-P	02-09-059	16-462-030	AMD	02-11-100	16-557-070	REP-U	02-09-0
16-302-410	PREP	02-05-083	16-462-050	AMD-P	02-08-085	16-557-070		02-11-0
16-302-410	AMD-P	02-09-059	16-462-050	AMD	02-11-100	16-557-080	REP-C	
16-302-435	PREP	02-05-083	16-462-055	AMD-P	02-08-085	16-557-080	REP-W	02-11-0
16-302-435	AMD-P	02-09-059	16-462-055	AMD	02-11-100	16-585	AMD-P	02-10-1 02-10-1
16-302-440	PREP	02-05-083	16-470-800	NEW-P	02-06-131	16-585-010	AMD-P	02-10-1
16-302-440	REP-P	02-09-059	16-470-800	NEW-E	02-07-120	16-585-020	AMD-Y	02-10-1
16-302-490	PREP	02-05-083	16-470-800	NEW	02-09-099	16-662-105	AMD-X	
16-302-490	AMD-P	02-09-059	16-470-810	NEW-P	02-06-131	16-674	PREP	02-08-0

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**Table of WAC Sections Affected** 

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
16-675	PREP	02-08-083	51- 56-1500	NEW-W	02-05-032	132H-152-135	PREP	02-03-104
16-695-070	AMD-P	02-03-033	82- 50-021	AMD-X	02-09-025	132H-152-135	AMD-P	02-08-082
16-752	PREP	02-05-089	118-65-020	AMD-P	02-09-072	132H-160-190	AMD-P	02-09-038
16-752-610	AMD-P	02-09-098	118-65-030	AMD-P	02-09-072	132H-410-010	NEW-P	02-03-107
36- 12-010	REP	02-03-069	118-65-040	AMD-P	02-09-072	132H-410-010	NEW	02-10-070
36- 12-011	AMD	02-03-069	118- 65-050	AMD-P	02-09-072	132H-410-020	NEW-P	02-03-107
36- 12-020	AMD	02-03-069	118- 65-060	AMD-P	02-09-072	132H-410-020	NEW	02-10-070
36- 12-030	AMD	02-03-069	118- 65-070	AMD-P	02-09-072	132H-410-030	NEW-P	02-03-107
36- 12-040	AMD	02-03-069	118-65-081	AMD-P	02-09-072	132H-410-030	NEW	02-10-070
36- 12-050	AMD	02-03-069	118-65-090	AMD-P	02-09-072	132H-410-040	NEW-P	02-03-107
36- 12-060	REP	02-03-069	130- 14-010	AMD-P	02-03-131	132H-410-040	NEW	02-10-070
36- 12-070	AMD	02-03-069	130- 14-010	AMD	02-06-043	132H-410-050	NEW-P	02-03-107
36- 12-080	REP	02-03-069	130- 14-030	AMD-P	02-03-131	132H-410-050	NEW	02-10-070
36- 12-100	AMD	02-03-069	130- 14-030	AMD	02-06-043	132H-410-060	NEW-P	02-03-107
36- 12-110	AMD	02-03-069	130- 14-050	AMD-P	02-03-131	132H-410-060	NEW	02-10-070
36- 12-120	REP	02-03-069	130- 14-050	AMD	02-06-043	132H-410-070	NEW-P	02-03-107
36- 12-130	AMD	02-03-069	130- 14-060	AMD-P	02-03-131	132H-410-070	NEW	02-10-070
36- 12-140	AMD	02-03-069	130- 14-060	AMD	02-06-043	132H-410-080	NEW-P	02-03-107
36- 12-150	AMD	02-03-069	132G-104-010	AMD-P	02-06-127	132H-410-080	NEW	02-10-070
36- 12-160	REP	02-03-069	132G-104-010	AMD	02-11-090	132H-410-090	NEW-P	02-03-107
36- 12-170	AMD	02-03-069	132G-104-020	AMD-P	02-06-127	132H-410-090	NEW	02-10-070
36- 12-190	AMD	02-03-069	132G-104-020	AMD	02-11-090	132H-410-100	NEW-P	02-03-107
36- 12-200	AMD	02-03-069	132G-104-030	REP-P	02-06-127	132H-410-100	NEW	02-10-070
36- 12-210	REP	02-03-069	132G-104-030	REP	02-11-090	132H-410-110	NEW-P	02-03-107
36- 12-220	REP	02-03-069	132H-106-030	AMD-P	02-05-052	132H-410-110	NEW	02-10-070
36- 12-240	AMD	02-03-069	132H-106-030	AMD	02-10-067	132H-450-010	NEW-P	02-05-053
36- 12-250	AMD	02-03-069	132H-120-030	AMD-P	02-03-106	132H-450-010	NEW	02-10-068
36- 12-260	AMD	02-03-069	132H-120-030	AMD	02-10-069	132N-144-010	REP	02-04-068
36- 12-270	AMD	02-03-069	132H-120-050	AMD-P	02-03-106	132N-144-020	REP	02-04-068
36- 12-280	AMD	02-03-069	132H-120-050	AMD	02-10-069	132N-150-010	NEW	02-04-068
36- 12-285	NEW	02-03-069	132H-120-200	AMD-P	02-03-106	132N-150-020	NEW	02-04-068
36- 12-290	AMD	02-03-069	132H-120-200	AMD	02-10-069	132N-150-030	NEW NEW	02-04-068 02-04-068
36- 12-300	AMD	02-03-069	132H-120-220	AMD-P	02-03-106	132N-150-040 132N-150-050	NEW	02-04-068
36- 12-310	AMD	02-03-069	132H-120-220	AMD AMD-P	02-10-069 02-03-106	132N-150-060	NEW	02-04-068
36- 12-320	AMD	02-03-069	132H-120-300 132H-120-300	AMD-F	02-03-100	132N-150-000	NEW	02-04-068
36- 12-330	REP	02-03-069	132H-120-350	AMD-P	02-10-009	132N-150-070	NEW	02-04-068
36- 12-340	REP	02-03-069 02-03-069	132H-120-350	AMD-F	02-10-069	132N-150-080	NEW	02-04-068
36- 12-350 36- 12-360	REP AMD	02-03-069	132H-120-410	AMD-P	02-03-106	132N-150-100	NEW	02-04-068
	REP	02-03-069	132H-120-410	AMD	02-10-069	132N-150-110	NEW	02-04-068
36- 12-363 36- 12-364	AMD	02-03-069	132H-120-420	AMD-P	02-03-106	· 132N-150-120	NEW	02-04-068
36- 12-465	AMD	02-03-069	132H-120-420	AMD	02-10-069	132N-150-130	NEW	02-04-068
44- 10	PREP	02-06-046	132H-120-440	AMD-P	02-03-106	132N-150-140	NEW	02-04-068
44- 10-010	AMD-P	02-10-060	132H-120-440	AMD	02-10-069	132N-150-150	NEW	02-04-068
44- 10-050	AMD-P	02-10-060	132H-120-450	AMD-P	02-03-106	132N-150-160	NEW	02-04-068
44- 10-060	AMD-P	, 02-10-060	132H-120-450	AMD	02-10-069	132N-150-170	NEW	02-04-068
44- 10-070	AMD-P	02-10-060	132H-122-020	AMD-P	02-09-038	132N-150-180	NEW	02-04-068
44- 10-080	AMD-P	02-10-060	132H-140	PREP	02-05-051	132N-150-190	NEW	02-04-068
44- 10-100	AMD-P	02-10-060	132H-140-020	AMD-P	02-09-071	132N-150-200	NEW	02-04-068
44- 10-110	AMD-P	02-10-060	132H-140-030	AMD-P	02-09-071	132N-150-210	NEW	02-04-068
44- 10-120	AMD-P	02-10-060	132H-140-040	AMD-P	02-09-071	132N-150-220	NEW	02-04-068
44- 10-130	AMD-P	02-10-060	132H-140-050	AMD-P	02-09-071	132N-150-230	NEW	02-04-068
44- 10-140	AMD-P	02-10-060	132H-140-060	REP-P	02-09-071	132N-150-240	NEW	02-04-068
44- 10-150	AMD-P	02-10-060	132H-140-065	NEW-P	02-09-071	132N-150-250	NEW	02-04-068
44- 10-160	AMD-P	02-10-060	132H-140-070	AMD-P	02-09-071	132N-150-260	NEW	02-04-068
44- 10-170	AMD-P	02-10-060	132H-140-080	REP-P	02-09-071	132N-150-270	NEW	02-04-068
44- 10-200	AMD-P	02-10-060	132H-140-085	NEW-P	02-09-071	132N-150-280	NEW	02-04-068
44- 10-210	AMD-P	02-10-060	132H-140-090	REP-P	02-09-071	132U- 52	PREP	02-06-104
44- 10-221	AMD-P	02-10-060	132H-140-100	REP-P	02-09-071	132U-120	PREP	02-06-103
44- 10-222	AMD-P	02-10-060	132H-140-110	AMD-P	02-09-071	132Z-116-005	NEW-P	02-03-089
44- 10-300	AMD-P	02-10-060	132H-140-120	NEW-P	02-09-071	132Z-116-005	NEW-E	02-04-061
11 10 500								

[3] Table

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
132Z-116-010	NEW-P	02-03-089	132Z-116-300	NEW	02-11-048	173- 50-070	AMD-P	02-11-151
132Z-116-010	NEW-E	02-04-061	132Z-116-310	NEW-P	02-03-089	173- 50-080	AMD-P	02-11-151
132Z-116-010	NEW	02-11-048	132Z-116-310	NEW-E	02-04-061	173- 50-090	AMD-P	02-11-151
132Z-116-020	NEW-P	02-03-089	132Z-116-310	NEW	02-11-048	173- 50-100	AMD-P	02-11-151
132Z-116-020	NEW-E	02-04-061	132Z-116-320	NEW-P	02-03-089	173- 50-110	AMD-P	02-11-151
132Z-116-020	NEW	02-11-048	132Z-116-320	NEW-E	02-04-061	173- 50-120	AMD-P	02-11-151
132Z-116-030	NEW-P	02-03-089	132Z-116-320	NEW	02-11-048	173-50-130	AMD-P	02-11-151
132Z-116-030	NEW-E	02-04-061	132Z-116-400	NEW-P	02-03-089	173-50-140	AMD-P	02-11-151
132Z-116-030	NEW	02-11-048	132Z-116-400	NEW-E	02-04-061	173- 50-150	AMD-P	02-11-151
132Z-116-040	NEW-P	02-03-089	132Z-116-400	NEW	02-11-048	173-50-160	AMD-P	02-11-151
132Z-116-040	NEW-E	02-04-061	132Z-116-410	NEW-P	02-03-089	173-50-170	AMD-P	02-11-151
132Z-116-040	NEW	02-11-048	132Z-116-410	NEW-E	02-04-061	173-50-180	AMD-P	02-11-151 02-11-151
132Z-116-050	NEW-P	02-03-089	132Z-116-410	NEW	02-11-048	173- 50-190 173- 50-200	AMD-P AMD-P	02-11-151
132Z-116-050	NEW-E	02-04-061	136- 04-020	AMD-P	02-11-120	173- 50-210	AMD-P	02-11-151
132Z-116-050	NEW	02-11-048	136- 10-010	REP-P REP-P	02-11-122 02-11-122	173- 50-210	AMD-P	02-11-151
132Z-116-060	NEW-P NEW-E	02-03-089 02-04-061	136- 10-020 136- 10-030	REP-P	02-11-122	173-158-030	AMD-P	02-06-040
132Z-116-060 132Z-116-060	NEW-E	02-04-061	136- 10-035	REP-P	02-11-122	173-158-070	AMD-P	02-06-040
132Z-116-000	NEW-P	02-03-089	136- 10-040	REP-P	02-11-122	173-158-075	NEW-P	02-06-040
132Z-116-070	NEW-E	02-04-061	136- 10-050	REP-P	02-11-122	173-158-076	NEW-P	02-06-040
132Z-116-070	NEW	02-11-048	136- 10-060	REP-P	02-11-122	173-173-030	NEW-W	02-05-034
132Z-116-080	NEW-P	02-03-089	136- 12-010	AMD-P	02-11-121	173-173-070	NEW-W	02-05-034
132Z-116-080	NEW-E	02-04-061	136- 12-020	AMD-P	02-11-121	173-216-125	AMD	02-05-055
132Z-116-080	NEW	02-11-048	136- 12-045	NEW-P	02-11-121	173-220-210	AMD	02-05-055
132Z-116-090	NEW-P	02-03-089	136- 12-060	AMD-P	02-11-121	173-222-010	REP-X	02-07-038
132Z-116-090	NEW-E	02-04-061	136- 12-070	AMD-P	02-11-121	173-222-010	REP-W	02-07-098
132Z-116-090	NEW	02-11-048	136- 12-080	AMD-P	02-11-121	173-222-010	REP-X	02-07-099
132Z-116-100	NEW-P	02-03-089	136- 18-085	NEW-P	02-11-119	173-222-010	REP	02-11-149
132Z-116-100	NEW-E	02-04-061	136- 50-010	NEW-P	02-11-118	173-222-015	REP-X	02-07-038
132Z-116-100	NEW	02-11-048	136- 50-020	NEW-P	02-11-118	173-222-015	REP-W	02-07-098
132Z-116-110	NEW-P	02-03-089	136- 50-030	NEW-P	02-11-118	173-222-015	REP-X	02-07-099
132Z-116-110	NEW-E	02-04-061	136- 50-035	NEW-P	02-11-118	173-222-015	REP	02-11-149
132Z-116-110	NEW	02-11-048	136- 50-050	NEW-P	02-11-118	173-222-020	REP-X	02-07-038
132Z-116-200	NEW-P	02-03-089	136- 50-051	NEW-P	02-11-118	173-222-020	REP-W	02-07-098
132Z-116-200	NEW-E	02-04-061	136- 50-052	NEW-P	02-11-118 02-11-118	173-222-020 173-222-020	REP-X REP	02-07-099 02-11-149
132Z-116-200	NEW	02-11-048	136- 50-053	NEW-P	02-11-118	173-222-020	REP-X	02-11-149
132Z-116-210	NEW-P	02-03-089	136- 50-054 136- 50-055	NEW-P NEW-P	02-11-118	173-222-030	REP-W	02-07-098
132Z-116-210	NEW-E NEW	02-04-061 02-11-048	136- 50-033	NEW-P	02-11-118	173-222-030	REP-X	02-07-099
132Z-116-210 132Z-116-220	NEW-P	02-11-048	136-130-030	AMD-P	02-06-105	173-222-030	REP	02-11-149
132Z-116-220	NEW-E	02-03-061	136-130-030	AMD	02-11-008	173-222-040	REP-X	02-07-038
132Z-116-220	NEW	02-11-048	136-130-070	AMD-P	.02:06-105	173-222-040	REP-W	02-07-098
132Z-116-230	NEW-P	02-03-089	136-130-070	AMD	02-11-008	173-222-040	REP-X	02-07-099
132Z-116-230	NEW-E	02-04-061	137- 28	PREP	02-03-075	173-222-040	REP	02-11-149
132Z-116-230	NEW	02-11-048	137- 28-160	AMD-P	02-09-002	173-222-050	REP-X	02-07-038
132Z-116-240	NEW-P	02-03-089	137- 28-220	AMD-P	02-09-002	173-222-050	REP-W	02-07-098
132Z-116-240	NEW-E	02-04-061	137- 28-240	AMD-P	02-09-002	173-222-050	REP-X	02-07-099
132Z-116-240	NEW	02-11-048	137- 28-260	AMD-P	02-09-002	173-222-050	REP	02-11-149
132Z-116-250	NEW-P	02-03-089	137- 28-310	AMD-P	02-09-002	173-222-060	REP-X	02-07-038
132Z-116-250	NEW-E	02-04-061	137- 28-350	AMD-P	02-09-002	173-222-060	REP-W	02-07-098
132Z-116-250	NEW	02-11-048	137- 28-380	AMD-P	02-09-002	173-222-060	REP-X	02-07-099
132Z-116-260	NEW-P	02-03-089	139- 05-915	PREP	02-08-015	173-222-060	REP	02-11-149
132Z-116-260	NEW-E	02-04-061	139- 35-015	AMD-P	02-08-016	173-222-070	REP-X	02-07-038
132Z-116-260	NEW	02-11-048	139- 35-025	AMD-P	02-08-016	173-222-070	REP-W	02-07-098
132Z-116-270	NEW-P	02-03-089	173- 50-010	AMD-P	02-11-151	173-222-070	REP-X	02-07-099 02-11-149
132Z-116-270	NEW-E	02-04-061	173- 50-020	AMD-P	02-11-151	173-222-070	REP REP-X	02-11-149
132Z-116-270	NEW	02-11-048	173- 50-030	AMD-P	02-11-151	173-222-080 173-222-080	REP-W	02-07-038
132Z-116-280	NEW-P	02-03-089	173-50-040	AMD-P AMD-P	02-11-151 02-11-151	173-222-080	REP-X	02-07-099
132Z-116-280	NEW-E	02-04-061	173- 50-050 173- 50-060	AMD-P	02-11-151	173-222-080	REP	02-07-03
132Z-116-280	NEW	02-11-048	173- 50-060	NEW-P				02-07-038
132Z-116-300	NEW-P	02-03-089	1 173-50-063	NHW-P	02-11-151	173-222-090	REP-X	UZ-U7-U17

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#### **Table of WAC Sections Affected**

WAC #	ACTION	WSR#	WAC #	ACTION	WSR#	WAC#	ACTION	WSR#
173-222-090	REP-X	02-07-099	173-303-691	AMD-P	02-11-101	180- 29	PREP	02-06-056
173-222-090	REP	02-11-149	173-303-692	AMD-P	02-11-101	180- 31	PREP	02-06-057
173-222-100	REP-X	02-07-038	173-303-806	AMD-P	02-11-101	180- 32	PREP	02-06-058
173-222-100	REP-W	02-07-098	173-303-830	AMD-P	02-11-101	180- 33	PREP	02-06-059
173-222-100	REP-X	02-07-099	173-303-920	NEW-P	02-11-101	180- 34	PREP	02-08-046
173-222-100	REP	02-11-149	. 173-312-010	AMD	02-05-070	180- 36	PREP	02-06-060
173-222-110	REP-X	02-07-038	173-312-020	AMD	02-05-070	180- 37-005	PREP	02-10-051
173-222-110	REP-W	02-07-098	173-312-040	AMD	02-05-070	180- 37-010	PREP	02-10-051
173-222-110	REP-X	02-07-099	173-312-050	AMD	02-05-070	180- 38	PREP	02-08-043
173-222-110	REP	02-11-149	173-312-060	AMD	02-05-070	180- 39	PREP	02-06-061
173-224-015	REP-X	02-07-038	173-312-070	AMD	02-05-070	180- 40	PREP	02-06-062
173-224-015	REP-W	02-07-098	173-312-080	AMD	02-05-070	180- 41	PREP	02-06-063
173-224-020	REP-X	02-07-038	173-312-090	AMD	02-05-070	180- 43	PREP	02-08-042
173-224-020	REP-W	02-07-098	173-312-100	AMD	02-05-070	180- 44	PREP	02-06-064
173-224-030	AMD-P	02-06-091	173-400-075	AMD-X	02-10-107	180- 46	PREP	02-06-065
173-224-030	REP-X	02-07-038	173-401	PREP	02-05-011	180- 50	PREP	02-06-066
173-224-030	REP-W	02-07-098	173-401-200	AMD-P	02-10-031	180- 52-070	NEW-P	02-08-092
173-224-040	AMD-P	02-06-091	173-401-300	AMD-P	02-10-031	180- 52-070	NEW-P	02-10-089
173-224-040	REP-X	02-07-038	173-401-500	AMD-P	02-10-031	180- 53	PREP	02-08-039
173-224-040	REP-W	02-07-098	173-401-530	AMD-P	02-10-031	180- 53-005	REP-E	02-08-038
173-224-050	AMD-P	02-06-091	173-401-615	AMD-P	02-10-031	180- 53-010	REP-E	02-08-038
173-224-050	REP-X	02-07-038	173-401-710	AMD-P	02-10-031	180- 53-020	REP-E	02-08-038
173-224-050	REP-W REP-X	02-07-098 02-07-038	173-401-722	AMD-P PREP	02-10-031	180- 53-025	REP-E	02-08-038
173-224-060 173-224-060	REP-W	02-07-038	173-422 173-422-020	AMD-P	02-05-071 02-09-066	180- 53-030	REP-E	02-08-038
173-224-000	REP-X	02-07-038	173-422-020	AMD-P	02-09-066	180- 53-035 180- 53-040	REP-E REP-E	02-08-038
173-224-080	REP-W	02-07-038	173-422-030	AMD-P	02-09-066	180- 53-045	REP-E	02-08-038 02-08-038
173-224-090	REP-X	02-07-038	173-422-051	AMD-P	02-09-066	180- 53-050	REP-E	02-08-038
173-224-090	REP-W	02-07-098	173-422-065	AMD-P	02-09-066	180- 53-055	REP-E	02-08-038
173-224-100	REP-X	02-07-038	173-422-003	AMD-P	02-09-066	180- 53-060	REP-E	02-08-038
173-224-100	REP-W	02-07-098	173-422-075	AMD-P	02-09-066	180- 53-070	REP-E	02-08-038
173-224-110	REP-X	02-07-038	173-422-190	AMD-P	02-09-066	180- 55	PREP	02-08-039
173-224-110	REP-W	02-07-098	173-422-195	AMD-P	02-09-066	180- 55-005	AMD-E	02-08-038
173-224-120	REP-X	02-07-038	173-434	PREP	02-07-097	180- 55-010	REP-E	02-08-038
173-224-120	REP-W	02-07-098	180- 08	PREP	02-08-041	180- 55-015	AMD-E	02-08-038
173-226-090	AMD	02-05-055	180- 10	PREP	02-08-041	180- 55-020	AMD-E	02-08-038
173-303	PREP	02-05-054	180- 16	PREP	02-08-039	180- 55-025	REP-E	02-08-038
173-303-045	AMD-P	02-11-101	180- 16	PREP	02-08-044	180- 55-030	REP-E	02-08-038
173-303-070	AMD-P	02-11-101	180- 16-002	AMD-E	02-08-038	180- 55-032	NEW-E	02-08-038
173-303-071	AMD-E	02-04-030	180- 16-006	REP-E	02-08-038	180- 55-034	NEW-E	02-08-038
173-303-071	AMD-P	02-11-101	180- 16-195	AMD-E	02-08-038	. 180- 55-035	REP-E	02-08-038
173-303-071	AMD-E	02-11-102	180- 16-2220	AMD-E	02-08-038	180- 55-050	REP-E	02-08-038
173-303-100	AMD-P	02-11-101	180- 16-2207	NEW-E	02-08-038	180- 55-070	REP-E	02-08-038
173-303-110	AMD-P	02-11-101	180- 18 ~	PREP	02-08-039	180- 55-075	REP-E	02-08-038
173-303-140	AMD-P	02-11-101	180- 18-010	AMD-E	02-08-038	180- 55-080	REP-E	02-08-038
173-303-170	AMD-P	02-11-101	180- 18-020	REP-E	02-08-038	180- 55-085	REP-E	02-08-038
173-303-200	AMD-P	02-11-101	180- 20	PREP	02-10-049	180- 55-090	REP-E	02-08-038
173-303-283	AMD-P	02-11-101	180- 20	PREP	02-10-084	180- 55-095	REP-E	02-08-038
173-303-380	AMD-P	02-11-101	180- 22	PREP	02-08-045	180- 55-100	REP-E	02-08-038
173-303-390	AMD-P	02-11-101	180- 23	PREP	02-08-045	180- 55-105	REP-E	02-08-038
173-303-400	AMD-P	02-11-101	180- 24	PREP	02-06-052	180- 55-110	REP-E	02-08-038
173-303-500	AMD-P	02-11-101	180- 24-400	AMD-E	02-08-035	180- 55-115	REP-E	02-08-038
173-303-505	AMD-P	02-11-101	180- 24-400	AMD-P	02-10-053	180- 55-120	REP-E	02-08-038
73-303-506	AMD-P	02-11-101	180- 24-405	REP-E	02-08-035	180- 55-125	REP-E	02-08-038
73-303-510	AMD-P	02-11-101	180- 24-405	REP-P	02-10-053	180- 55-130	REP-E	02-08-038
73-303-520	AMD-P	02-11-101	180- 24-410	AMD-E	02-08-035	180- 55-135	REP-E	02-08-038
73-303-522	AMD-P	02-11-101	180- 24-410	AMD-P	02-10-053	180- 55-150	NEW-E	02-08-038
73-303-525	AMD-P	02-11-101	180- 24-415	AMD-E	02-08-035	180- 72	PREP	02-06-067
173-303-578	AMD-P	02-11-101	180- 24-415	AMD-P	02-10-053	180- 77	AMD	02-04-018
73-303-645	AMD-P	02-11-101	180- 25	PREP	02-06-053	180-77	PREP	02-06-068
173-303-646	AMD-P	02-11-101	180- 26	PREP	02-06-054	180- 77-002	AMD	02-04-018
173-303-690	AMD-P	02-11-101	180- 27	PREP	02-06-055	180- 77-003	AMD	02-04-018

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Table

100 77 005						-		WSR#
180- 77-005	AMD	02-04-018	180- 82A-206	NEW	02-04-013	180- 97-005	REP-E	02-08-034
180- 77-012	AMD	02-04-018	180- 82A-215	NEW	02-04-013	180- 97-010	AMD-E	02-08-034
180- 77 <b>-</b> 014	AMD	02-04-018	180- 83	PREP	02-06-074	180- 97-015	REP-E	02-08-034
180- 77-020	AMD	02-04-018	180- 85	PREP	02-06-075	180- 97-020	REP-E	02-08-034
180- 77-025	AMD	02-04-018	180- 85-035	AMD	02-04-017	180- 97-040	AMD-E	02-08-034
180- 77-031	AMD	02-04-018	180- 85-075	AMD	02-04-017	180- 97-050	REP-E	02-08-034
180- 77-041	AMD	02-04-018	180- 85-075	PREP	02-06-081	180- 97-060	AMD-E	02-08-034
180- 77-041	PREP	02-10-048	180- 85-075	AMD-P	02-10-086	180- 97-070	REP-E	02-08-034
180- 77-068	AMD	02-04-018	180- 86	PREP	02-06-076	180- 97-080	AMD-E	02-08-034
180- 77-070	AMD	02-04-018	180- 86-011	AMD-P	02-10-052	180- 97-090	REP-E	02-08-034
180- 77-075	AMD	02-04-018	180- 86-013	AMD-P	02-10-052	180- 97-100	REP-E	02-08-034
180- 77-080	AMD	02-04-018	180- 86-020	PREP	02-03-084	182	PREP	02-11-034
180- 77-110 .	AMD	02-04-018	180- 86-020	REP-P	02-10-052	182 182- 12-230	PREP NEW-P	02-11-035 02-05-078
180- 77-120	AMD	02-04-018	180- 86-030	AMD-P	02-10-052 02-03-084	182- 12-230	NEW-F	02-03-078
180- 77-122	AMD	02-04-018	180- 86-055	PREP REP-P	02-10-052	192- 16-013	REP-X	02-08-047
180- 77A 180- 77A	AMD PREP	02-04-018 02-06-069	180- 86-055 180- 86-065	AMD-P	02-10-052	192- 16-021	REP	02-08-071
	AMD	02-04-018	180- 86-070	AMD-P	02-10-052	192- 16-033	REP-E	02-03-074
180- 77A-004 180- 77A-006	AMD	02-04-018	180- 86-075	AMD-P	02-10-052	192- 16-033	PREP	02-07-064
180- 77A-006 180- 77A-025	AMD	02-04-018	180- 86-100	AMD-P	02-10-052	192-16-033	REP-E	02-07-065
180- 77A-029	AMD	02-04-018	180- 86-116	AMD-P	02-10-052	192-16-036	REP-E	02-03-074
180- 77A-030	AMD	02-04-018	180- 86-130	AMD-P	02-10-052	192- 16-036	PREP	02-07-064
180- 77A-033	AMD	02-04-018	180- 86-140	AMD-P	02-10-052	192- 16-036	REP-P	02-07-065
180- 77A <b>-</b> 037	AMD	02-04-018	180- 86-145	AMD-P	02-10-052	192- 16-040	REP-E	02-03-074
180- 77A-040	AMD	02-04-018	180- 86-160	AMD-P	02-10-052	192- 16-040	PREP	02-07-064
180- 77A-057	AMD	02-04-018	180- 86-170	AMD-P	02-10-052	192- 16-040	REP-P	02-07-065
180- 77A-165	AMD	02-04-018	180- 86-180	AMD-P	02-10-052	192- 16-042	REP-E	02-03-074
180- 77A-180	AMD	02-04-018	180- 86-185	AMD-P	02-10-052	192- 16-042	PREP	02-07-064
180- 77A-195	AMD	02-04-018	180- 87	PREP	02-06-077	192- 16-042	REP-P	02-07-065
180- 78A	PREP	02-06-070	180- 90	PREP	02-06-078	192- 16-045	REP-E	02-03-074
180- 78A-209	AMD	02-04-018	180- 90-105	AMD-E	<b>02-08-037</b> .	192- 16-045	PREP	02-07-064
180- 78A-220	AMD	02-04-014	180- 90-105	AMD-P	02-10-088	192- 16-045	REP-P	02-07-065
180- 78A-255	AMD	02-04-014	180- 90-110	REP-E	02-08-037	192- 16-047	REP-E	02-03-074
180- 78A-261	AMD	02-04-014	180- 90-110	REP-P	02-10-088	192- 16-047	PREP	02-07-064 02-07-065
180- 78A-264	AMD	02-04-014	180- 90-112	AMD-E	02-08-037	192- 16-047 192-150-055	REP-P NEW-X	02-07-003
180- 78A-270	AMD	02-04-018	180- 90-112 180- 90-115	AMD-P REP-E	02-10-088 02-08-037	192-150-060	NEW-X	02-08-071
180- 78A-505	PREP	02-06-051 02-10-085	180-90-115	REP-P	02-10-088	192-170-050	NEW	02-08-072
180- 78A-505 180- 79A	AMD-P PREP	02-10-083	180- 90-119	REP-E	02-08-037	192-180-012	NEW	02-08-072
180- 79A-030	AMD	02-04-015	180- 90-119	REP-P	02-10-088	192-240-010	NEW-E	02-03-074
180- 79A-117	AMD	02-04-018	180- 90-120	REP-E	02-08-037	192-240-015	NEW-E	02-03-074
180- 79A-130	AMD	02-04-018	180- 90-120	REP-P	102-10-088	192-240-020	NEW-E	02-03-074
180- 79A-140	AMD	02-04-018	180- 90-123	REP-E	1:02-08-037	192-240-025	NEW-E	02-03-074
180- 79A-150	AMD	02-04-018	180- 90-123	REP-P	02-10-088	192-240-030	NEW-E	02-03-074
180- 79A-150	PREP	02-10-050	180- 90-125	REP-E	02-08-037	192-240-030	NEW-E	02-07-065
180- 79A-206	PREP	02-05-061	180- 90-125	REP-P	02-10-088	192-240-035	NEW-E	02-03-074
180- 79A-206	AMD-P	02-10-085	180- 90-130	AMD-E	02-08-037	192-240-040	NEW-E	02-03-074
180- 79A-211	AMD	02-04-018	180- 90-130	· AMD-P	02-10-088	192-240-040	NEW-E	02-07-065
180- 79A-250	PREP	02-05-060	180- 90-133	REP-E	02-08-037	192-240-045	NEW-E	02-07-065
180- 79A-250	AMD-P	02-10-087	180- 90-133	REP-P	02-10-088	196- 26-020	REP-P	02-08-075
180- 81	PREP	02-06-072	180- 90-135	REP-E	02-08-037	196- 26-030	REP-P	02-08-075
180- 82	PREP	02-06-073	180- 90-135	REP-P	02-10-088	196- 26A-010	NEW-P	02-08-075
180- 82-105	AMD	02-04-018	180- 90-137	REP-E	02-08-037	196- 26A-020	NEW-P	02-08-075
180- 82-105	PREP	02-10-045	180- 90-137	REP-P	02-10-088	196- 26A-025	NEW-P	02-08-075
180- 82-202	AMD	02-04-018	180- 90-141	AMD-E	02-08-037	196- 26A-030	NEW-P	02-08-075
180- 82-322	AMD	02-04-018	180- 90-141	AMD-P	02-10-088	196- 26A-035	NEW-P	02-08-075
180- 82-346	AMD	02-04-016	180- 90-160	AMD-E	02-08-037	196- 26A-040	NEW-P	02-08-075
180- 82-350	AMD	02-04-018	180- 90-160	AMD-P	02-10-088	196- 26A-045	NEW-P	02-08-075
180- 82A-002	NEW	02-04-013	180- 95	PREP	02-06-079	196- 26A-050	NEW-P NEW-P	02-08-075 02-08-075
180- 82A-200 180- 82A-202	NEW	02-04-013	180- 96	PREP PREP	02-06-080 02-08-040	196- 26A-055 196- 26A-060	NEW-P NEW-P	02-08-075
	NEW	02-04-013	180- 97	rker	UZ-UO-U4U	1 20- 20/A-000	14 E 44 - L	02-00-073

Table [6]

#### **Table of WAC Sections Affected**

204- 36-030 204- 36-040 204- 36-060 204- 91A-010 204- 91A-030	AMD AMD	02-07-055	212- 12-280	NIEW E		1 000 00 0100014		
204- 36-060 204- 91A-010	AMD			NEW-E	02-03-060	220- 33-01000K	REP-E	02-07-010
204- 91A-010		02-07-055	212- 12-290	NEW-E	02-03-060	220- 33-01000K	REP-E	02-07-094
	AMD	02-07-055	212- 12-300	NEW-E	02-03-060	220- 33-01000L	NEW-E	02-07-094
204-91A-030	AMD	02-07-056	212- 12-310	NEW-E	02-03-060	220- 33-01000L	REP-E	02-07-094
	AMD	02-07-056	212- 12-320	NEW-E	02-03-060	220- 33-01000L	REP-E	02-08-014
204- 91A-060	AMD	02-07-056	212- 12-330	NEW-E	02-03-060	220- 33-01000M	NEW-E	02-08-014
204- 91 A-090	AMD	02-07-056	212- 12-340	NEW-E	02-03-060	220- 33-01000M	REP-E	02-08-025
204-91A-120	AMD	02-07-056	212- 12-350	NEW-E	02-03-060	220- 33-01000N	NEW-E	02-08-025
204- 91A-130	AMD	02-07-056	212- 12-360	NEW-E	02-03-060	220- 33-01000N	REP-E	02-08-025
204- 91A-140	AMD	02-07-056	212- 12-370	NEW-E	02-03-060	220- 33-03000S	NEW-E	02-11-014
204- 91A-170	AMD	02-07-056	212- 12-380	NEW-E	02-03-060	220- 33-03000S	REP-E	02-11-014
204- 91A-180	AMD	02-07-056	212- 12-390	NEW-E	02-03-060	220- 33-04000N 220- 33-04000P	REP-E	02-04-072
204- 95	PREP	02-11-037	212- 12-400	NEW-E NEW-E	02-03-060 02-03-060	220- 33-04000P 220- 33-04000P	NEW-E REP-E	02-04-072 02-04-072
208-424-010	NEW-P	02-11-010	212- 12-410 212- 12-420	NEW-E	02-03-060	220- 33-04000P 220- 33-04000P	REP-E	02-04-072
208-424-020	NEW-P	02-11-010	220- 16-028	AMD	02-03-060	220- 33-04000P 220- 33-04000Q	NEW-E	02-04-102
208-424-030	NEW-P AMD	02-11-010 02-04-094	220- 16-410	AMD-W	02-05-035	220- 33-04000Q 220- 33-04000Q	REP-E	02-04-102
208-472 208-472-010	AMD	02-04-094	220- 16-480	· AMD	02-03-033	220- 33-04000Q 220- 33-04000Q	REP-E	02-04-102
208-472-010 208-472-012	REP	02-04-094	220- 16-760	ŅEW	02-08-048	220- 33-04000Q 220- 33-04000R	NEW-E	02-06-036
208-472-012	AMD	02-04-094	220- 16-780	NEW	02-08-048	220- 33-04000R	REP-E	02-06-036
208-472-013	AMD	02-04-094	220- 16-78000A	NEW-E	02-10-118	220-40-027	AMD-X	02-11-072
208-472-025	AMD	02-04-094	220- 16-790	NEW	02-08-048	220- 44-05000H	REP-E	02-04-060
208-472-029	NEW	02-04-094	220- 16-79000A	NEW-E	02-10-118	220- 44-05000I	NEW-E	02-04-060
208-472-035	NEW	02-04-094	220- 20-010	AMD	02-08-048	220- 44-05000I	REP-E	02-07-093
208-472-033	REP	02-04-094	220- 20-016	PREP	02-06-107	220- 44-05000J	NEW-E	02-07-093
208-472-045	REP	02-04-094	220- 20-016	AMD-X	02-11-073	220- 44-05000J	REP-E	02-11-042
208-472-050	REP	02-04-094	220- 20-025	AMD	02-08-048	220- 44-05000K	NEW-E	02-11-042
208-472-060	REP	02-04-094	220- 20-075	NEW	02-05-046	220- 47-301	AMD-X	02-11-073
208-472-065	REP	02-04-094	220- 20-100	NEW	02-08-048	220- 47-311	AMD-X	02-11-073
208-472-070	REP	02-04-094	220- 24-04000B	NEW-E	02-10-078	220- 47-401	AMD-X	02-11-073
208-472-075	REP	02-04-094	220- 24-04000B	REP-E	02-10-078	220- 47-411	AMD-X	02-11-073
208-472-080	REP	02-04-094	220- 24-04000B	REP-E	02-10-120	220- 47-428	AMD-X	02-11-073
212- 12-001	PREP	02-07-018	220- 24-04000C	NEW-E	02-10-120	220- 47-430	AMD-X	02-11-073
212- 12-001	AMD-P	02-11-038	220- 24-04000C	REP-E	02-10-120	220- 48-005	AMD	02-08-026
212- 12-005	PREP	02-07-018	220- 32-05100K	REP-E	02-04-073	220- 49-013	AMD	02-08-026
212- 12-005	AMD-P	02-11-038	220- 32-05100L	. NEW-E	02-04-073	220- 49-056	AMD	02-08-026
212- 12-010	PREP	02-07-018.	220- 32-05100L	REP-E	02-04-073	220- 52-03000R	NEW-E	02-11-043
212- 12-010	AMD-P	02-11-038	220- 32-05100L	REP-E	02-07-011	220- 52-03000R	REP-E	02-11-043
212- 12-011	PREP	02-07-018	220- 32-05100M	NEW-E	02-07-011	220- 52-04000F	REP-E	02-03-068
212- 12-011	AMD-P	02-11-038	220- 32-05100M	REP-E	02-07-011	220- 52-04600A	REP-E	02-03-024
212- 12-015	PREP	02-07-018	220- 32-05100M	REP-E	02-07-044	· 220- 52-04600B	NEW-E	02-03-024
212- 12-015	AMD-P	02-11-038	220- 32-050100N	NEW-E	02-07-044	220- 52-04600B	REP-E	02-03-050
212- 12-020	PREP	02-07-018	220- 32-05)100N	REP-E	02-07-044	220- 52-04600C 220- 52-04600C	NEW-E REP-E	02-03-050 02-04-093
212- 12-020	AMD-P	.02-11-038	220- 32-05100P	NEW-E	02-10-042	220- 52-04600C 220- 52-04600D	NEW-E	02-04-093
212- 12-025	PREP	02-07-018	220- 32-05100P	REP-E NEW-E	02-10-042 02-11-003	220- 52-04600D 220- 52-04600D	REP-E	02-04-093
212- 12-025	AMD-P	02-11-038	220- 32-05100Q	REP-E	02-11-003	220- 52-04600E	NEW-E	02-07-037
212- 12-030	PREP	02-07-018	220- 32-05100Q 220- 32-05100R	NEW-E	02-11-003	220- 52-04600E 220- 52-04600E	REP-E	02-07-037
212- 12-030	AMD-P PREP	02-11-038 02-07-018	220- 32-05100R 220- 32-05100R	REP-E	02-11-049	220- 52-04600E 220- 52-04600F	NEW-E	02-07-075
212- 12-035			220- 32-05100K 220- 32-05100S	NEW-E	02-11-049	220- 52-04600F	REP-E	02-07-073
212- 12-035	AMD-P PREP	02-11-038 02-07-018	220- 32-05100S 220- 32-05100S	REP-E	02-11-085	220- 52-04600G	NEW-E	02-08-070
212- 12-040	AMD-P	02-11-038	220- 32-05100S 220- 32-05100S	REP-E	02-11-085	220- 52-04600G	REP-E	02-08-070
212-12-040	PREP	02-11-038	220- 32-051003 220- 32-05500E	NEW-E	02-11-146	220- 52-050	AMD-W	02-03-076
212- 12-044 212- 12-044	AMD-P	02-07-018	220- 32-05500E	REP-E	02-11-146	220- 52-050 220- 52-05100A	NEW-E	02-11-020
212- 12-0 <del>44</del> 212- 12-200	NEW-E	02-03-060	220- 32-05700P	NEW-E	02-11-146	220- 52-05100A 220- 52-05100A	REP-E	02-10-004
212- 12-200	NEW-E	02-03-060	220- 32-05700P 220- 32-05700P	REP-E	02-11-146	220- 52-05100A 220- 52-05100B	NEW-E	02-10-043
212- 12-210 212- 12-220	NEW-E	02-03-060	220- 32-03700F 220- 33-01000I	NEW-E	02-04-077	220- 52-05100B	NEW-E	02-10-043
212- 12-220 212- 12-230	NEW-E	02-03-060	220- 33-01000I 220- 33-01000I	REP-E	02-04-077	220- 52-05100 Y	REP-E	02-09-021
212- 12-230 212- 12-240	NEW-E	02-03-060	220- 33-01000J	NEW-E	02-05-056	220- 52-05100T	NEW-E	02-09-067
212- 12-240 212- 12-250	NEW-E	02-03-060	220- 33-01000J	REP-E	02-05-056	220- 52-05100Z	REP-E	02-09-007
212- 12-230 212- 12-260	NEW-E	02-03-060	220- 33-01000J	REP-E	02-03-030	220- 52-07300Q	REP-E	02-10-004
212- 12-200	NEW-E	02-03-060	220- 33-01000K	NEW-E	02-07-010	220- 52-07300R	NEW-E	02-03-025

[7] Table

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
220- 52-07300R	REP-E	02-03-067	220- 56-32500U	REP-E	02-11-013	222- 10-041	AMD-P	02-05-087
220- 52-07300S	NEW-E	02-03-067	220- 56-32500V	NEW-E	02-11-013	222- 10-041	AMD	02-11-075
220- 52-07300S	REP-E	02-03-090	220- 56-32500V	REP-E	02-11-041	222- 16-050	AMD-E	02-05-086
220- 52-07300T	NEW-E	02-03-090	220- 56-32500W	NEW-E	02-11-041	222- 16-050	PREP	02-07-023
	REP-E	02-04-035	220- 56-32500W	REP-E	02-11-134	222- 16-050	AMD-P	02-11-138
	NEW-E	02-04-035	220- 56-32500X	NEW-E	02-11-134	222- 21-010	AMD	02-05-084
	REP-E	02-04-078	220- 56-33000D	NEW-E	02-03-051	222- 21-020	AMD	02-05-084
	NEW-E	02-04-078	220- 56-33000D	REP-E	02-05-001	222- 21-045	AMD	02-05-084
	REP-E	02-07-046	220- 56-33000E	NEW-E	02-05-001	222- 21-050	AMD	02-05-084
220- 52-07300W	NEW-E	02-07-092	220- 56-33000E	REP-E	02-07-037	222- 21-061	NEW	02-05-084 02-03-038
	REP-E	02-07-092	220- 56-33000F	NEW-E	02-07-037	226- 01-040 226- 01-040	AMD-X AMD	02-03-038
	NEW-E	02-09-021	220- 56-33000F	REP-E NEW-E	02-07-075 02-07-075	226- 01-050	AMD-X	02-03-078
	REP-E NEW-E	02-10-004 02-10-004	220- 56-33000G 220- 56-33000G	REP-E	02-07-073	226- 01-050	AMD-A	02-03-038
220- 52-07500E 220- 55-00100A	NEW-E	02-10-004	220- 56-33000H	NEW-E	02-08-070	226- 12-080	AMD-X	02-03-078
220- 55-00100A 220- 56-100	AMD	02-10-100	220- 56-33000H	REP-E	02-11-050	226- 12-080	AMD-A	02-03-036
220- 56-105	AMD	02-08-048	220- 56-33000H	REP-E	02-11-094	226- 16-160	AMD-X	02-03-038
220- 56-115	AMD	02-09-001	220- 56-33000I	NEW-E	02-11-050	226- 16-160	AMD	02-08-076
220- 56-116	AMD	02-08-048	220- 56-33000I	REP-E	02-11-094	226- 20-010	AMD-X	02-03-038
220- 56-124	AMD-X	02-10-127	220- 56-33000J	NEW-E	02-11-094	226- 20-010	AMD	02-08-076
220- 56-128	AMD	02-08-048	220- 56-33000J	REP-E	02-11-132	230- 02-145	REP-P	02-07-081
220- 56-15600A	NEW-E	02-10-108	220- 56-33000K	NEW-E	02-11-132	230- 02-145	REP	02-11-084
220- 56-193	NEW-P	02-10-124	220- 56-335	AMD	02-08-048	230- 02-205	AMD-S	02-03-077
220- 56-194	NEW-P	02-10-124	220- 56-350	AMD	02-08-048	230- 04-064	AMD-P	02-06-037
220- 56-195	AMD-X	02-10-127	220- 56-35000J	REP-E	02-06-035	230- 04-064	AMD	02-10-002
220- 56-195001	NEW-E	02-11-086	220- 56-35000K	NEW-E	02-06-035	230- 04-202	AMD-W	02-02-090
220- 56-195001	REP-E	02-11-086	220- 56-35000K	REP-E	02-10-029	230- 08-255	AMD-P	02-06-037
220- 56-210	AMD	02-08-048	220- 56-35000L	NEW-E	02-10-029	230- 08-255	AMD	02-10-002
220- 56-235	AMD	02-09-001	220- 56-355	AMD	02-08-048	230- 12-045	NEW-P	02-07-081
220- 56-23500L	NEW-E	02-03-002	220- 56-35500B	NEW-E	02-07-076	230- 12-045	NEW	02-11-084
220- 56-23500L	REP-E	02-07-004	220- 56-36000L	NEW-E	02-03-053	230- 12-050	AMD-P	02-07-081
220- 56-23500M	NEW-E	02-07-004	220- 56-36000L	REP-E	02-03-053	230- 12-050	AMD	02-11-084
220- 56-25000D	NEW-E	02-07-025	220- 56-36000L	REP-E	02-04-039	230- 12-330	AMD-P	02-06-038
220- 56-25000D	REP-E	02-07-025	220- 56-36000M	NEW-E	02-04-039	230- 12-330	AMD	02-10-003
220- 56-25500X	NEW-E	02-09-045	220- 56-36000M	REP-E	02-04-039	230- 12-340	AMD-P	02-06-038
220- 56-265	AMD	02-08-048	220- 56-36000N	NEW-E	02-07-012	230- 12-340	AMD DED D	02-10-003
220- 56-270	AMD	02-08-048	220- 56-36000N	REP-E NEW-E	02-07-012 02-10-012	230- 20-111 230- 20-111	REP-P REP	02-07-081 02-11-084
220- 56-27000L	REP-E	02-06-036 02-06-036	220- 56-36000P 220- 56-36000P	REP-E	02-10-012	230- 20-111	REP-P	02-11-084
220- 56-27000M 220- 56-27000M	NEW-E REP-E	02-06-036	220- 56-36000P	NEW-E	02-10-012	230- 20-125	REP	02-07-081
220- 56-282	AMD	02-08-048	220- 56-36000Q 220- 56-36000Q	REP-E	02-11-012	230- 20-230	REP-P	02-07-081
220- 56-28200D	NEW-E	02-06-017	220- 56-380	AMD	02-08-048	230- 20-230	REP	02-11-084
220- 56-28200D	REP-E	02-06-017	220- 56-38000C	REP-E	02-06-035	230- 20-244	AMD	02-06-006
220- 56-28200E	NEW-E	02-10-119	220- 56-38000D	NEW-E	02-06-035	230- 20-246	AMD	02-06-006
220- 56-285	AMD	02-08-048	220- 56-38000D	REP-E	02-10-029	230- 20-249	AMD	02-06-006
220- 56-28500B	NEW-E	02-05-010	220- 56-38000E	NEW-E	02-10-029	230- 30-033	AMD	02-06-007
220- 56-28500B	REP-E	02-10-063	220- 69	PREP	02-10-105	230- 30-045	AMD	02-06-007
220- 56-28500C	NEW-E	02-11-006	220- 69-24000A	NEW-E	02-10-004	230- 30-072	AMD	02-06-007
220- 56-28500C	REP-E	02-11-006	220- 69-24000A	REP-E	02-10-043	230- 30-106	AMD-P	02-06-038
220- 56-28500C	REP-E	02-11-039	220- 69-24000B	NEW-E	02-10-043	230- 30-106	AMD	02-10-003
220- 56-28500D	NEW-E	02-11-039	220- 74-020	AMD-P	02-06-109	230- 40-800	AMD-P	02-07-081
220- 56-307	REP	02-08-048	220- 74-020	AMD	02-10-023	230- 40-800	AMD	02-11-084
220- 56-310	AMD	02-08-048	220- 77-020	AMD	02-06-018	230- 40-897	REP-P	02-07-081
220- 56-31000U	NEW-E	02-09-003	220- 77-040	AMD	02-06-018	230- 40-897	REP	02-11-084
220- 56-31000U	REP-E	02-09-003	220- 77-09000A	NEW-E	02-04-069	232- 12-011	AMD-P	02-06-122
220- 56-315	AMD	02-08-048	220- 77-09000A	REP-E	02-04-089	232- 12-011	AMD	02-08-048
220- 56-31500A	NEW-E	02-09-003	220- 77-09000B	NEW-E	02-04-089	232- 12-011	AMD	02-11-069
220- 56-31500A	REP-E	02-09-003	220- 77-100	NEW-W	02-11-027	232- 12-014	AMD-P	02-06-122
220- 56-31500B	NEW-E	02-11-020	220- 77-105	NEW-W	02-11-027	232- 12-014	AMD	02-11-069
220- 56-32500T	NEW-E	02-08-028	220-130-040	AMD-W	02-02-089	232-12-019	AMD	02-08-048
220- 56-32500T	REP-E	02-09-003	222- 10-040	AMD-P	02-05-087	232- 12-147	REP	02-08-048
220- 56-32500U	NEW-E	02-10-028	222- 10-040	AMD	02-11-075	232-12-151	REP	02-08-048

Table [8]

#### **Table of WAC Sections Affected**

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
232- 12-168	AMD	02-08-048	232- 28-61900M	NEW-E	02-11-068	246-224-0080	NEW-P	02-07-021
232- 12-16800B	NEW-E	02-07-095	232- 28-61900M	REP-E	02-11-068	246-224-0090	NEW-P	02-07-021
232- 12-16800B	REP-E	02-07-095	232- 28-61900N	NEW-E	02-04-019	246-224-010	REP-P	02-07-021
232- 12-245	NEW-W	02-11-025	232- 28-61900N	REP-E	02-04-019	246-224-0100	NEW-P	02-07-021
232- 12-253	NEW	02-05-021	232- 28-61900N	NEW-E	02-11-071	246-224-0110	NEW-P	02-07-021
232- 12-253	AMD-P	02-10-125	232- 28-61900N	REP-E	02-11-071	246-224-0120	NEW-P	02-07-021
232- 12-267	AMD-P	02-10-128	232- 28-61900P	NEW-E	02-04-103	246-224-020	REP-P	02-07-021
232- 12-272	NEW	02-08-048	232- 28-61900Q	NEW-E	02-05-007	246-224-050	REP-P	02-07-021
232- 12-619	AMD	02-08-048	232- 28-61900Q	REP-E	02-11-040	246-224-060	REP-P	02-07-021
232- 28-02220	AMD-P AMD	02-06-124 02-11-069	232- 28-61900Q	NEW-E	02-11-086	246-224-070	REP-P	02-07-021
232- 28-02220 232- 28-02240	AMD-P	02-06-124	232- 28-61900Q 232- 28-61900R	REP-E NEW-E	02-11-086	246-224-090	REP-P	. 02-07-021
232- 28-02240	AMD-F	02-11-069	232- 28-61900R 232- 28-61900R	REP-E	02-05-008 02-05-008	246-224-100 246-229-0001	REP-P	02-07-021
232- 28-248	AMD-P	02-06-124	232- 28-61900R 232- 28-61900R	NEW-E	02-03-008	246-229-001	NEW-P REP-P	02-07-021 02-07-021
232- 28-248	AMD	02-11-069	232- 28-61900R	REP-E	02-11-114	246-229-001	NEW-P	02-07-021
232- 28-266	AMD-P	02-06-121	232- 28-61900S	NEW-E	02-05-010	246-229-0020	NEW-P	02-07-021
232- 28-273	AMD-P	02-06-121	232- 28-61900S	REP-E	02-09-009	246-229-0030	NEW-P	02-07-021
232- 28-273	AMD	02-11-069	232- 28-61900T	NEW-E	02-05-075	246-229-0040	NEW-P	02-07-021
232- 28-276	AMD-P	02-10-128	232- 28-61900T	REP-E	02-07-096	246-229-0050	NEW-P	02-07-021
232- 28-277	AMD-P	02-06-125	232- 28-61900U	REP-E	02-03-022	246-229-0060	NEW-P	02-07-021
232- 28-277	REP-P	02-10-128	232- 28-61900U	NEW-E	02-06-100	246-229-0070	NEW-P	02-07-021
232- 28-277	AMD	02-11-069	232- 28-61900U	REP-E	02-06-100	246-229-0080	NEW-P	02-07-021
232- 28-278	AMD-P	02-06-126	232- 28-61900V	NEW-E	02-06-099	246-229-0090	NEW-P	02-07-021
232- 28-278	AMD	02-11-069	232- 28-61900V	REP-E	02-06-099	246-229-0100	NEW-P	02-07-021
232- 28-279	AMD-P	02-06-123	232- 28-61900W	NEW-E	02-07-061	246-229-020	REP-P	02-07-021
232- 28-279	AMD	02-11-069	232- 28-61900W	REP-E	02-07-061	246-229-030	REP-P	02-07-021
232- 28-282	NEW-P	02-10-128	232- 28-61900X	NEW-E	02-07-019	246-229-050	REP-P	02-07-021
232- 28-299	AMD-P	02-10-128	232- 28-61900X	REP-E	02-07-019	246-229-060	REP-P	02-07-021
232- 28-42500C	NEW-E	02-03-052	232- 28-61900Y	NEW-E	02-07-066	246-229-070	REP-P	02-07-021
232- 28-42500C	REP-E	02-03-052	232- 28-61900Y	REP-E	02-07-066	246-229-080	REP-P	02-07-021
232- 28-619	AMD	02-08-048	232- 28-61900Z	NEW-E	02-07-096	246-229-090	REP-P	02-07-021
232- 28-619	AMD-X	02-10-127	232- 28-61900Z	REP-E	02-07-096	246-229-100	REP-P	02-07-021
232- 28-61900A	NEW-E	02-08-022	232- 28-620	AMD-X	02-10-127	246-229-110	REP-P	02-07-021
232- 28-61900A	REP-E	02-11-001	232- 28-62000D	NEW-E	02-11-086	246-252-030	AMD-X	02-11-021
232- 28-61900B	NEW-E REP-E	02-08-004 02-08-004	232- 28-62000D 232- 28-621	REP-E	02-11-086	246-254-053	AMD-P	02-04-034
232- 28-61900B 232- 28-61900C	NEW-E	02-08-004	232- 28-621	AMD AMD-X	02-08-048	246-254-053	AMD	02-07-085
232- 28-61900C	REP-E	02-09-023	232- 28-62100G	NEW-E	02-10-127 02-11-086	246-254-070 246-254-080	AMD AMD	02-04-025 02-04-025
232- 28-61900D	REP-E	02-05-025	232- 28-62100G	REP-E	02-11-086	246-254-090	AMD	02-04-025
232- 28-61900D	NEW-E	02-09-009	246- 12-040	AMD-X	02-09-042	246-254-100	AMD	02-04-025
232- 28-61900D	REP-E	02-10-063	246- 50	PREP-W	02-09-027	246-254-120	AMD	02-04-025
232- 28-61900E	NEW-E	02-10-024	246-100-166	PREP	02-10-066	246-272	PREP	02-03-137
232- 28-61900E	REP-E	02-10-024	246-100-206	AMD-P	02-08-018	246-310-990	AMD-P	02-10-064
232- 28-61900F	NEW-E	02-10-077	246-100-207	AMD-P	02-08-018	246-320	PREP	02-11-076
232- 28-61900G	NEW-E	02-10-062	246-100-208	AMD-P	02-08-018	246-320-990	AMD-P	02-10-131
232- 28-61900H	REP-E	02-03-014	246-145-001	NEW	02-11-109	246-322-990	AMD-P	02-10-131
232- 28-61900H	NEW-E	02-10-063	246-145-010	NEW	02-11-109	246-324-990	AMD-P	02-10-131
232- 28-61900H	REP-E	02-11-006	246-145-020	NEW	02-11-109	246-329-990	AMD-P	02-10-131
232- 28-61900I	NEW-E	02-03-022	246-145-030	NEW	02-11-109	246-333-010	REP-X	02-10-132
232- 28 <b>-</b> 61900I	REP-E	02-03-022	246-145-040	NEW	02-11-109	246-333-020	REP-X	02-10-132
232- 28-619001	NEW-E	02-11-001	246-215-150	AMD-P	02-04-091	246-333-030	REP-X	02-10-132
232- 28-61900J	NEW-E	02-03-023	246-215-150	AMD	02-09-028	246-333-040	REP-X	02-10-132
232- 28-61900J	NEW-E	02-11-006	246-224	AMD-P	02-07-021	246-338-020	PREP	02-03-138
232- 28-61900J	REP-E	02-11-039	246-224-0001	NEW-P	02-07-021	246-338-020	AMD-P	02-09-026
232- 28-61900K	NEW-E	02-03-014	246-224-001	REP-P	02-07-021	246-338-990	PREP	02-03-138
232- 28-61900K	NEW-E	02-11-039	246-224-0010	NEW-P	02-07-021	246-338-990	AMD-P	02-09-026
232- 28-61900K	REP-E	02-11-039	246-224-0020	NEW-P	02-07-021	246-388	PREP	02-08-017
232- 28-61900L	NEW-E	02-03-015	246-224-0030	NEW-P	02-07-021	246-650	PREP	02-03-136
	REP-E	02-03-015	246-224-0040	NEW-P	02-07-021	246-650	PREP-W	02-04-024
232- 28-61900L	NEW E	02.11.040	246,224,0050	NEW D	02 07 021	246 700 010	AMDD	02 07 020
232- 28-61900L 232- 28-61900L	NEW-E	02-11-040 02-03-066	246-224-0050	NEW-P	02-07-021	246-790-010 246-790-010	AMD-P	02-07-020
232- 28-61900L	NEW-E NEW-E REP-E	02-11-040 02-03-066 02-10-063	246-224-0050 246-224-0060 246-224-0070	NEW-P NEW-P NEW-P	02-07-021 02-07-021 02-07-021	246-790-010 246-790-010 246-790-050	AMD-P AMD AMD-P	02-07-020 02-11-107 02-07-020

[9] Table

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
246-790-050	AMD	02-11-107	246-811-260	NEW	02-07-084	246-937	AMD	02-11-022
246-790-065	AMD-P	02-07-020	246-811-270	NEW	02-07-084	246-937-010	AMD	02-11-022
246-790-065	AMD	02-11-107	246-811-990	AMD	02-07-083	246-937-020	AMD	02-11-022
246-790-070	AMD-P	02-07-020	246-826-080	PREP-W	02-11-105	246-937-030	AMD	02-11-022
246-790-070	AMD	02-11-107	246-826-100	AMD	02-06-115	246-937-040	AMD	02-11-022
246-790-080	AMD-P	02-07-020	246-826-300	NEW	02-06-115	246-937-050	AMD	02-11-022
246-790-080	AMD	02-11-107	246-826-301	NEW	02-06-115	246-937-060	AMD	02-11-022
246-790-085	AMD-P	02-07-020	246-826-302	NEW	02-06-115	246-937-070	AMD	02-11-022
246-790-085	AMD	02-11-107	246-826-303	NEW	02-06-115	246-937-090	AMD	02-11-022
246-790-090	AMD-P	02-07-020	246-828	PREP-W	02-11-105	246-976-031	AMD-P	02-10-133 02-11-077
246-790-090	AMD	02-11-107	246-828-080	PREP-W PREP-W	02-11-105 02-11-105	246-976-161 246-976-171	PREP PREP	02-11-077
246-790-100	AMD-P AMD	02-07-020	246-828-090 246-828-100	PREP-W	02-11-105	246-976-171	AMD-P	02-11-077
246-790-100 246-790-120	AMD-P	02-11-107 02-07-020	246-828-320	PREP-W	02-11-105	246-976-510	AMD-P	02-09-043
246-790-120 246-790-120	AMD	02-07-020	246-840-020	PREP	02-04-033	246-976-550	AMD-P	02-09-043
246-790-120 246-790-130	AMD-P	02-07-020	246-840-030	PREP	02-04-033	246-976-560	AMD-P	02-09-043
246-790-130	AMD	02-11-107	246-840-040	PREP	02-04-033	246-976-600	AMD-P	02-09-043
246-808-101	REP-W	02-11-105	246-840-050	PREP	02-04-033	246-976-610	AMD-P	02-09-043
246-808-320	REP-W	02-11-105	246-840-060	PREP	02-04-033	246-976-650	AMD-P	02-09-043
246-808-330	REP-W	02-11-105	246-840-070	PREP	02-04-033	246-976-720	AMD-P	02-09-043
246-808-340	REP-W	02-11-105	246-840-080	PREP	02-04-031	246-976-730	AMD-P	02-09-043
246-808-350	REP-W	02-11-105	246-840-090	PREP	02-04-031	246-976-770	AMD-P	02-09-043
246-808-360	REP-W	02-11-105	246-840-700	AMD	02-06-117	246-976-780	AMD-P	02-09-043
246-808-370	REP-W	02-11-105	246-840-705	AMD	02-06-117	246-976-810	AMD-P	02-09-043
246-808-380	REP-W	02-11-105	246-840-710	AMD	02-06-117	246-976-820	AMD-P	02-09-043
246-808-390	REP-W	02-11-105	246-840-715	REP	02-06-117	246-976-886	NEW-P	02-09-043
246-808-640	REP-W	02-11-105	246-843-015	REP-X	02-06-116	246-976-887	NEW-P	02-09-043
246-808-700	REP-W	02-11-105	246-843-150	AMD-P	02-11-106	246-976-935	AMD	02-04-045
246-809-600	NEW	02-11-108	246-843-180	AMD-P	02-11-106	246-976-960	AMD-P	02-10-133
246-809-610	NEW	02-11-108	246-843-220	PREP-W	02-11-105	246-976-970	AMD-P	02-10-133
246-809-620	NEW	02-11-108	246-843-330	AMD-P	02-11-106	250- 66-030	AMD	02-05-006
246-809-630	NEW	02-11-108	246-851	PREP-W	02-11-105	251-01-240	AMD-P	02-04-081
246-809-640	NEW	02-11-108	246-851-150	AMD-C	02-04-090	251- 01-240	AMD	02-07-051
246-809-650	NEW	02-11-108	246-851-150	AMD	02-10-065	251- 12-073	REP-P	02-04-079
246-810-320	REP	02-09-041	246-851-160	AMD-C	02-04-090	251- 12-073	REP	02-07-048
246-810-321	REP	02-09-041	246-851-160	AMD	02-10-065	251- 17-200	AMD-P	02-04-080
246-810-332	REP	02-09-041	246-851-200	REP	02-10-134	251- 17-200	AMD B	02-07-050
246-810-340	REP	02-09-041	246-851-250	AMD-C AMD	02-04-090	251-19-120 251-19-120	AMD-P	02-04-081
246-810-520	REP REP	02-09-041	246-851-250 246-851-300	AMD-C	02-10-065 02-04-090	259- 04-010	AMD AMD	02-07-051 02-06-014
246-810-521 246-810-532	REP	02-09-041	246-851-300	AMD-C	02-10-065	259- 04-050	AMD	02-06-014
246-810-540	REP	02-09-041	246-851-310	AMD-C	02-04-090	259- 04-070	q.AMD	02-06-014
246-810-600	REP	02-11-108	246-851-310	AMD	02-10-065	260- 36-040	q_AMD-P	02-05-029
246-810-610	REP	02-11-108	246-851-330	AMD-C	02-04-090	260-36-040	AMD	02-10-101
246-810-620	REP	02-11-108	246-851-330	AMD	02-10-065	260- 48-930	NEW-P	02-05-028
246-810-630	REP	02-11-108	246-851-520	AMD-C	02-04-090	260- 48-930	NEW-W	02-05-033
246-810-640	REP	02-11-108	246-851-520	AMD	02-10-065	260- 48-930	NEW	02-10-100
246-810-650	REP	02-11-108	246-883-020	AMD-X	02-07-086	260- 70-650	AMD-P	02-05-030
246-810-660	REP	02-11-108	246-883-050	REP-W	02-11-105	260- 70-650	AMD	02-10-102
246-810-720	REP	02-09-041	246-887-160	PREP-W	02-11-105	260- 70-660	PREP	02-05-027
246-810-721	REP	02-09-041	246-889-020	AMD-X	02-11-152	284- 04-120	. AMD	02-08-019
246-810-732	REP	02-09-041	246-904-010	PREP-W	02-11-105	292-110-010	AMD	02-07-074
246-810-740	REP	02-09-041	246-918-990	AMD	02-05-009	292-110-010	AMD-W	02-09-069
246-811	PREP-W	02-11-105	246-919-990	AMD	02-05-009	292-120-030	AMD	02-04-003
246-811-081	NEW	02-07-083	246-924-485	PREP-W	02-11-105	292-120-035	NEW	02-04-003
246-811-082	NEW	02-07-083	246-935	AMD	02-10-135	296- 05-007	AMD-X	02-04-004
246-811-200	NEW	02-07-084	246-935-010	AMD	02-10-135	296- 05-007	AMD	02-10-083
246-811-210	NEW	02-07-084	246-935-020	AMD	02-10-135	296- 05-300	AMD-X	02-04-004
246-811-220	NEW	02-07-084	246-935-030	AMD	02-10-135	296- 05-300	AMD	02-10-083
246-811-230	NEW	02-07-084	246-935-090	AMD	02-10-135	296- 05-316	AMD-X	02-04-004
246-811-240	NEW	02-07-084	246-935-100	AMD	02-10-135	296- 05-316	AMD	02-10-083
246-811-250	NEW	02-07-084	246-935-120	AMD	02-10-135	296- 05-402	AMD-X	02-04-004

Table [ 10 ]

#### **Table of WAC Sections Affected**

WAC#	ACTION		WAC#	ACTION	WSR#		WAC #	ACTION	WSR#
296- 05-402	AMD	02-10-083	296- 32-240	AMD-P	02-05-080		296- 52-60080	NEW	02-03-125
296- 150C	PREP	02-04-106	296- 32-250	AMD-X	02-05-077		296- 52-60085	NEW	02-03-125
296- 150F	PREP	02-04-106	296- 32-280	AMD-X	02-05-077		296- 52-60090	NEW	02-03-125
296- 150M	PREP	02-04-106	296- 33-010	NEW	02-06-024		296- 52-60095	NEW	02-03-125
296- 150P	PREP	02-04-106	296- 400A	PREP	02-04-106		296- 52-60100	NEW	02-03-125
296- 150R	PREP	02-04-106	296- 401B	PREP	02-04-106		296- 52-60105	NEW	02-03-125
296- 150V	PREP	02-04-106	296- 45	AMD-S	02-10-025		296- 52-60110	NEW-W	02-06-102
296- 17	PREP	02-07-102	296- 45-52530	AMD-P	02-05-080		296- 52-60115	NEW	02-03-125
296- 17-35203	AMD-P	02-03-123	296- 46A	PREP	02-04-106		296- 52-60120	NEW	02-03-125
296- 17-35203	AMD	02-09-093	296- 46A-910	AMD-P	02-09-095		296- 52-60125	NEW	02-03-125
296- 17-52140	AMD-P	02-03-123	296- 46A-915	AMD-P	02-09-095		296- 52-60130	NEW	02-03-125
296- 17-52140	AMD	02-09-093	296- 52	AMD	02-03-125		296- 52-61005	NEW	02-03-125
296- 17-52141	AMD-P	02-03-123	296- 52-401	REP	02-03-125		296- 52-61010	NEW	02-03-125
296- 17-52141	AMD	02-09-093	296- 52-405	REP	02-03-125		296- 52-61015	NEW	02-03-125
296- 17-52150	AMD-P	02-03-123	296- 52-409	REP	02-03-125		296- 52-61020	NEW	02-03-125
296- 17-52150	AMD	02-09-093	296- 52-413	REP	02-03-125		296- 52-61025	ŅEW	02-03-125
296- 17-52151	AMD-P	02-03-123	296- 52-417	REP	02-03-125		296- 52-61030	NEW	02-03-125
296- 17-52151	AMD	02-09-093	296- 52-419	REP	02-03-125		296- 52-61035	NEW	02-03-125
296- 200A	PREP	02-04-106	296- 52-421	REP	02-03-125		296- 52-61040	NEW	02-03-125
296- 20-135	AMD-P	02-05-076	296- 52-423	REP	02-03-125		296- 52-61045	NEW	02-03-125
296- 20-135	AMD	02-10-129	296- 52-425	REP	02-03-125		296- 52-61050	NEW	02-03-125
296- 23-220	AMD-P	02-05-076	296- 52-429	REP	02-03-125		296- 52-62005	NEW	02-03-125
296- 23-220	AMD	02-10-129	296- 52-433	REP	02-03-125		296- 52-62010	NEW	02-03-125
296- 23-230	AMD-P	02-05-076	296- 52-437	REP	02-03-125		296- 52-62020	NEW-W	02-06-102
296- 23-230	AMD	02-10-129	296- 52-441	REP	02-03-125		296- 52-62025	NEW	02-03-125
296- 24	PREP	02-04-107	296- 52-445	REP	02-03-125		296- 52-62030	NEW	02-03-125
296- 24	PREP	02-04-108	296- 52-449	REP	02-03-125		296- 52-62035	NEW	02-03-125
296- 24	PREP	02-09-091	296- 52-453	REP	02-03-125		296- 52-62040	NEW	02-03-125
296- 24-012	AMD-X	02-05-077	296- 52-457	REP	02-03-125		296- 52-62045	NEW	02-03-125
296- 24-102	REP-X	02-08-080	296- 52-461	REP	02-03-125		296- 52-63005	NEW	02-03-125
296- 24-10203	REP-X	02-08-080	296- 52-465	REP	02-03-125		296- 52-63010	NEW	02-03-125
296- 24-14001	AMD-X	02-05-077	296- 52-469	REP	02-03-125		296- 52-63015	NEW-W	02-06-102
296- 24-145	PREP	02-09-088	296- 52-477	REP	02-03-125		296- 52-63020	NEW	02-03-125
296- 24-23003	AMD-X	02-05-077	296-52-481	REP	02-03-125		296- 52-63025	NEW	02-03-125
296- 24-405	REP-P	02-07-100	296- 52-485	REP	02-03-125		296- 52-63030	NEW	02-03-125
296- 24-40501	REP-P	02-07-100	296- 52-487	REP	02-03-125		296- 52-64005	NEW	02-03-125
296- 24-40503	REP-P	02-07-100	296- 52-489	REP	02-03-125,		296- 52-64010	NEW-W	02-06-102
296- 24-40505	REP-P	02-07-100	296- 52-493	REP	02-03-125		296- 52-64015	NEW-W	02-06-102
296- 24-40507	REP-P	02-07-100	296- 52-497	REP	02-03-125		296- 52-64020	NEW	02-03-125
296- 24-40509 296- 24-40511	REP-P	02-07-100	296- 52-501	REP	02-03-125	·	296- 52-64025	NEW-W	02-06-102
296- 24-40513	REP-P	02-07-100	296- 52-505	REP	02-03-125		296- 52-64030	NEW	02-03-125
296- 24-40515 296- 24-40515	REP-P	02-07-100	296- 52-509	REP	02-03-125		296- 52-64035	NEW	02-03-125
296- 24-40313 296- 24-51009	REP-P	02-07-100 02-05-077	296- 52-510	REP	02-03-125		296- 52-64040	NEW	02-03-125
296- 24-51011	AMD-X AMD-X	02-05-077	296- 52-550	REP	02-03-125	٠	296- 52-64045	NEW	02-03-125
296- 24-51011	'AMD-X		296-52-552	REP	02-03-125	۱ ا	296- 52-64050	NEW	02-03-125
296- 24-60205	AMD-X	02-05-077 02-05-077	296- 52-555	REP	02-03-125	- 1	296- 52-64055	NEW	02-03-125
296- 24-60203 296- 24-63499		and the second s	296- 52-600	NEW-W	02-06-102		296- 52-64060	NEW-W	02-06-102
296- 24-67513	AMD-X AMD-X	02-05-077	296- 52-60005	NEW	02-03-125		296- 52-64065	NEW	02-03-125
296- 24-67515 296- 24-67515	AMD-X	02-05-077	296- 52-60010	NEW	02-03-125	ı	296- 52-64070	NEW-W	02-06-102
296- 24-07313 296- 28-001	REP-P	02-05-077	296- 52-60015	NEW	02-03-125		296- 52-64075	NEW T	02-03-125
296- 28-001 296- 28-005	REP-P	02-07-101	296- 52-60020	NEW	02-03-125		296- 52-64080	NEW	02-03-125
	,	02-07-101	296- 52-60025	NEW-W	02-06-102		296- 52-64085	NEW	02-03-125
296- 28-010	REP-P	02-07-101	296- 52-60030	NEW	02-03-125		296- 52-64090	NEW	02-03-125
296- 28-015	REP-P	02-07-101	296- 52-60035	NEW	02-03-125		296- 52-64095	NEW	02-03-125
296- 28-020	REP-P	02-07-101	296- 52-60040	NEW-W	02-06-102		296- 52-64100	NEW	02-03-125
296- 28-025	REP-P	02-07-101	296- 52-60045	NEW	02-03-125	- 1	296- 52-650	NEW	02-03-125
296- 28-030	REP-P	02-07-101	296- 52-60050	NEW	02-03-125		296- 52-65005	NEW	02-03-125
296- 28-035	RÉP-P	02-07-101	296- 52-60055	NEW	02-03-125	- [	296- 52-65010	NEW	02-03-125
96- 28-040	REP-P	02-07-101	296- 52-60060	NEW	02-03-125		296- 52-65015	NEW	02-03-125
296- 28-045	REP-P	02-07-101	296- 52-60065	NEW	02-03-125	-	296- 52-65020	NEW	02-03-125
296- 28-050	REP-P	02-07-101 02-10-025	296- 52-60070 296- 52-60075	NEW-W	02-06-102	1	296- 52-65025	NEW	02-03-125
296- 32	AMD-S			NEW	02-03-125		296- 52-65030	NEW	

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**Table of WAC Sections Affected** 

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
296- 52-660	NEW	02-03-125	296- 52-67250	NEW-W	02-06-102	296- 52-71005	NEW-W	02-06-102
296- 52-66005	NEW	02-03-125	296- 52-68005	NEW-W	02-06-102	296- 52-71010	NEW-W	02-06-102
296- 52-66010	NEW	02-03-125	296- 52-68010	NEW	02-03-125	296- 52-71015	NEW	02-03-125
296- 52-66015	NEW	02-03-125	296- 52-68015	NEW	02-03-125	296- 52-71020	NEW	02-03-125
296- 52-66020	NEW	02-03-125	296- 52-68020	NEW	02-03-125	296- 52-71025	NEW	02-03-125
296- 52-66025	NEW-W	02-06-102	296- 52-68025	NEW	02-03-125	296- 52-71030	NEW-W	02-06-102
296- 52-66030	NEW	02-03-125	296- 52-68030	NEW	02-03-125	296- 52-71035	NEW	02-03-125
96- 52-66035	NEW	02-03-125	296- 52-68035	NEW-W	02-06-102	296- 52-71040	NEW	02-03-125
296- 52-66040	NEW	02-03-125	296- 52-68040	NEW	02-03-125	296- 52-71045	NEW	02-03-125
296- 52-66045	NEW	02-03-125	296- 52-68045	NEW	02-03-125	296- 52-71050	NEW-W	02-06-102
296- 52-66050	NEW	02-03-125	296- 52-68050	NEW	02-03-125	296- 52-71055	NEW	02-03-125
296- 52-66055	NEW	02-03-125	296- 52-68055	NEW	02-03-125	296- 52-71060	NEW	02-03-125
296- 52-66060	NEW	02-03-125	296- 52-68060	NEW	02-03-125	296- 52-71065	NEW	02-03-125
296- 52-67005	NEW-W	02-06-102	296- 52-68065	NEW	02-03-125	296- 52-71070	NEW-W	02-06-102
296- 52-67010	NEW	02-03-125	296- 52-68070	NEW-W	02-06-102	296- 52-71075	NEW	02-03-125
296- 52-67015	NEW-W	02-06-102	296- 52-68075	NEW	02-03-125	296- 52-71080	NEW	02-03-125
296- 52-67020	NEW	02-03-125	296- 52-68080	NEW	02-03-125	296- 52-71085	NEW-W	02-06-102
296- 52-67025	NEW	02-03-125	296- 52-68085	NEW	02-03-125	296- 52-71090	NEW	02-03-125
296- 52-67030	NEW	02-03-125	296- 52-69005	NEW	02-03-125	296- 52-71095	NEW	02-03-125
296- 52-67035	NEW	02-03-125	296- 52-69010	NEW	02-03-125	296- 52-71100	NEW	02-03-125
296- 52-67040	NEW	02-03-125	296- 52-69015	NEW	02-03-125	296- 52-71105	NEW	02-03-125
296- 52-67045	NEW	02-03-125	296- 52-69020	NEW	02-03-125	296- 52-720	NEW	02-03-125
296- 52-67050	NEW	02-03-125	296- 52-69025	NEW	02-03-125	296- 52-725	NEW	02-03-125
296- 52-67055	NEW	02-03-125	296- 52-69030	NEW	02-03-125	296-62	PREP	02-04-107
296- 52-67060	NEW	02-03-125	296- 52-69035	NEW	02-03-125	296- 62	PREP	02-10-130
296- 52-67065	NEW	02-03-125	296- 52-69040	NEW	02-03-125	296- 62-060	AMD-P	02-09-092
96- 52-67070	NEW	02-03-125	296- 52-69045	NEW	02-03-125	296- 62-070	AMD-P PREP	02-09-092
96- 52-67075	NEW	02-03-125	296- 52-69050	NEW	02-03-125	296- 62-071		02-11-140
96- 52-67080	NEW	02-03-125	296- 52-69055	NEW NEW	02-03-125 02-03-125	296- 62-07302 296- 62-07304	AMD-X AMD-X	02-05-077 02-05-077
96- 52-67085	NEW	02-03-125	296- 52-69060	NEW			AMD-X	02-03-077
296- 52-67090	NEW	02-03-125	296- 52-69065 296- 52-69070	NEW	02-03-125 02-03-125	296- 62-07312 296- 62-07314	AMD-X	02-03-077
296- 52-67095	NEW NEW	02-03-125 02-03-125	296- 52-69075	NEW-W	02-03-123	296- 62-07421	AMD-X	02-05-077
296- 52-67100	NEW	02-03-125	296- 52-69080	NEW-W	02-03-125	296- 62-07501	AMD-X	02-05-077
296- 52-67105	NEW	02-03-125	296- 52-69085	NEW	02-03-125	296- 62-07527	AMD-X	02-05-077
296- 52-67110 296- 52-67115	NEW	02-03-125	296- 52-69090	NEW	02-03-125	296- 62-07540	AMD-X	02-05-077
296- 52-67113 296- 52-67120	NEW-W	02-06-102	296- 52-69095	NEW	02-03-125	296- 62-080	AMD-P	02-09-092
296- 52-67125	NEW	02-03-125	296- 52-69100	NEW-W	02-06-102	296- 62-11021	AMD-P	02-07-100
296- 52-67130	NEW	02-03-125	296- 52-69105	NEW	02-03-125	296- 62-130	AMD-P	02-09-092
296- 52-67135	NEW	02-03-125	296- 52-69110	NEW	02-03-125	296- 62-14105	AMD-X	02-05-077
296- 52-67140	NEW	02-03-125	296- 52-69115	NEW	02-03-125	296-62-14110	AMD-X	02-05-077
96- 52-67145	NEW	02-03-125	296- 52-69120	NEW	02-03-125	296- 62-14155	4-C AMD-X	02-05-077
296- 52-67150	NEW-W	02-06-102	296- 52-69125	NEW	02-03-125	296- 62-14171	X-QMA <sub>D-F</sub>	02-05-077
296- 52-67155	NEW-W	02-06-102	296- 52-700	NEW	02-03-125	296- 62-410	REP	02-11-141
96- 52-67160	NEW	02-03-125	296- 52-70005	NEW	02-03-125	296- 62-41001	REP	02-11-141
296- 52-67165	NEW	02-03-125	296- 52-70010	NEW	02-03-125	296- 62-41003	REP	02-11-141
96- 52-67170	NEW	02-03-125	296- 52-70015	NEW	02-03-125	296- 62-41010	REP	02-11-141
96- 52-67175	NEW-W	02-06-102	296- 52-70020	NEW	02-03-125	296- 62-41011	REP	02-11-141
96- 52-67180	NEW	02-03-125	296- 52-70025	NEW	02-03-125	296- 62-41013	REP	02-11-141
96- 52-67185	NEW	02-03-125	296- 52-70030	NEW	02-03-125	296- 62-41015	REP	02-11-141
96- 52-67190	NEW	02-03-125	296- 52-70035	NEW	02-03-125	296- 62-41017	REP	02-11-141
296- 52-67195	NEW	02-03-125	296- 52-70040	NEW	02-03-125	296- 62-41019	REP	02-11-141
96- 52-67200	NEW	02-03-125	296- 52-70045	NEW	02-03-125	296- 62-41020	REP	02-11-141
296- 52-67205	NEW-W	02-06-102	296- 52-70050	NEW	02-03-125	296- 62-41021	REP	02-11-141
296- 52-67210	NEW	02-03-125	296- 52-70055	NEW	02-03-125	296- 62-41023	REP	02-11-141
296- 52-67215	NEW	02-03-125	296- 52-70060	NEW	02-03-125	296- 62-41025	REP	02-11-141
296- 52-67220	NEW	02-03-125	296- 52-70065	NEW	02-03-125	296- 62-41030	REP	02-11-141
296- 52-67225	NEW	02-03-125	296- 52-70070	NEW	02-03-125	296- 62-41031	REP	02-11-141
296- 52-67230	NEW	02-03-125	296- 52-70075	NEW-W	02-06-102	296- 62-41033	REP	02-11-141
296- 52-67235	NEW	02-03-125	296- 52-70080	NEW	02-03-125	296- 62-41035	REP	02-11-141
296- 52-67240	NEW	02-03-125	296- 52-70085	NEW	02-03-125	296- 62-41040	REP	02-11-141
296- 52-67245	NEW	02-03-125	296- 52-710	NEW	02-03-125	296- 62-41041	REP	02-11-141

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#### Table of WAC Sections Affected

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
296- 62-41042	REP	02-11-141	296-150T-3000	AMD-P	02-09-095	296-307-45220	NEW	02-11-14
296- 62-41043	REP	02-11-141	296-150V-0800	AMD-P	02-09-095	296-307-45230	NEW	02-11-14
296- 62-41044	REP	02-11-141	296-150V-3000	AMD-P	02-09-095	296-307-45240	NEW	02-11-14
296- 62-41045	REP	02-11-141	296-155	PREP	02-09-091	296-307-45400	NEW	02-11-14
296- 62-41046	REP	02-11-141	296-155	AMD-S	02-10-025	296-307-45410	NEW	02-11-141
296- 62-41047	REP	02-11-141	296-155-110	AMD-P	02-05-080	296-307-45420	NEW	02-11-141
296- 62-41060	REP	02-11-141	296-155-165	AMD-P	02-05-080	296-307-45430	NEW	02-11-141
296- 62-41061	REP	02-11-141	296-155-200	AMD-P	02-05-080	296-307-45440	NEW	02-11-141
296- 62-41063	REP	02-11-141	296-155-24525	AMD-X	02-05-077	296-307-45450	NEW	02-11-141
296- 62-41080	REP	02-11-141	296-155-441	AMD-X	02-05-077	296-307-45600	NEW	02-11-141
296- 62-41081	REP	02-11-141	296-155-525	AMD-X	02-05-077	296-307-45610	NEW	02-11-141
296- 62-41082	REP	02-11-141	296-155-530	AMD-X	02-05-077	296-307-45620	NEW	02-11-141
296- 62-41084	REP	02-11-141	296-155-601	NEW-P	02-05-080	296-307-45800	NEW	02-11-141
296- 62-41085	REP REP	02-11-141	296-155-602	NEW-P	02-05-080	296-307-46000	NEW	02-11-141
296- 62-41086	AMD	02-11-141	296-155-603	NEW-P	02-05-080	296-400A	PREP	02-09-089
296- 78-56501	AMD	02-03-124	296-155-604	NEW-P	02-05-080	296-400A	AMD-P	02-09-096
296- 78-56505 296- 78-71015	AMD-P	02-03-124	296-155-605	AMD-P	02-05-080	296-400A-005	AMD-P	02-09-096
296- 78-71013 296- 79-140	AMD-P AMD-X	02-07-100 02-05-077	296-155-606	NEW-P	02-05-080	296-400A-020	AMD-P	02-09-096
296- 79-140 296- 86A-010	REP-P	02-03-077	296-155-607 296-155-608	NEW-P NEW-P	02-05-080 02-05-080	296-400A-025	AMD-P	02-09-096
296- 86A-020	REP-P	02-09-095	296-155-609	NEW-P		296-400A-026	AMD-P	02-09-096
296- 86A-025	REP-P	02-09-095	296-155-610	AMD-P	02-05-080 02-05-080	296-400A-030	AMD-P	02-09-096
296- 86A-028	REP-P	02-09-095	296-155-611	NEW-P	02-05-080	296-400A-031	AMD-P	02-09-096
296- 86A-030	REP-P	02-09-095	296-155-612	NEW-P	02-05-080	296-400A-035	AMD-P	02-09-096
296- 86A-040	REP-P	02-09-095	296-155-615	AMD-P	02-05-080	296-400A-045 296-400A-070	AMD-P	02-09-096
296- 86A-060	REP-P	02-09-095	296-155-655	AMD-I	02-05-080	296-400A-100	AMD-P AMD-P	02-09-096 02-09-096
296- 86A-065	REP-P	02-09-095	296-155-66405	AMD-X	02-05-080	296-400A-100 296-400A-120	AMD-P	02-09-096
296- 86A-070	REP-P	02-09-095	296-155-66411	AMD-X	02-05-077	296-400A-121	AMD-P	02-09-096
296- 86A-073	REP-P	02-09-095	296-155-700	REP-P	02-06-114	296-400A-121	NEW-P	02-09-096
296- 86A-074	REP-P	02-09-095	296-155-701	NEW-P	02-06-114	296-400A-130	AMD-P	02-09-096
296- 86A-075	REP-P	02-09-095	296-155-702	NEW-P	02-06-114	296-400A-140	AMD-P	02-09-096
296- 86A-080	REP-P	02-09-095	296-155-703	NEW-P	02-06-114	296-400A-430	NEW-P	02-09-096
296- 96	PREP	02-04-106	296-155-704	NEW-P	02-06-114	296-401B-700	AMD-P	02-09-095
296- 96	PREP	02-09-090	296-155-705	REP-P	02-06-114	296-402A-040	AMD-P	02-09-097
296- 96-01010	AMD-P	02-09-095	296-155-706	NEW-P	02-06-114	296-402A-410	AMD-P	02-09-097
296- 96-01012	NEW-P	02-09-095	296-155-707	NEW-P	02-06-114	296-402A-630	AMD-P	02-09-097
296- 96-01015	REP-P	02-09-095	296-155-708	NEW-P	02-06-114	296-403-010	REP-P	02-09-097
296- 96-01025	AMD-P	02-09-095	296-155-709	NEW-P	02-06-114	296-403-020	REP-P	02-09-097
296- 96-01027	AMD-P	02-09-095	296-155-710	REP-P	02-06-114	296-403-030	REP-P	02-09-097
296- 96-01030	AMD-P	02-09-095	296-155-711	NEW-P	02-06-114	296-403-040	REP-P	02-09-097
296- 96-01035	AMD-P	02-09-095	296-155-714	NEW-P	02-06-114	296-403-050	REP-P	02-09-097
296- 96-01040	AMD-P	02-09-095	296-155-715	REP-P	02-06-114	296-403-060	REP-P	02-09-097
296- 96-01045	AMD-P	02-09-095	296-155-716	NEW-P	02-06-114	296-403-070	REP-P	02-09-097
296- 96-01050	AMD-P	02-09-095	296-155-717	NEW-P	02-06-114	296-403-080	REP-P	02-09-097
296- 96-01055	AMD-P	02-09-095	296-155-720	REP-P	02-06-114	296-403-090	REP-P	02-09-097
296- 96-01060	AMD-P	02-09-095	296-155-72401	NEW-P	02-06-114	296-403-100	REP-P	02-09-097
296- 96-01065	AMD-P	02-09-095	296-155-72402	NEW-P	02-06-114	296-403-110	REP-P	02-09-097
296-104	PREP	02-04-105	296-155-72403	NEW-P	02-06-114	296-403-120	REP-P	02-09-097
296-104	PREP	02-08-090	296-155-72404	NEW-P	02-06-114	296-403-130	REP-P	02-09-097
296-104-055	AMD-P	02-09-094	296-155-72405	NEW-P	02-06-114	296-403-140	REP-P	02-09-097
296-104-060	AMD-P	02-09-094	296-155-72406	NEW-P	02-06-114	296-403-150	REP-P	02-09-097
296-104-700	AMD-P	02-09-094	296-155-960	AMD-X	02-05-077	296-403-160	REP-P	02-09-097
296-130	PREP	02-11-139	296-200A-080	AMD-P	02-09-095	296-403A-100	NEW-P	02-09-097
296-150C-0800	AMD-P	02-09-095	296-200A-900	AMD-P	02-09-095	296-403A-110	NEW-P	02-09-097
296-150C-3000	AMD-P	02-09-095	296-305-04001	AMD-X	02-05-077	296-403A-120	NEW-P	02-09-097
296-150M-0020	AMD	02-03-048	296-305-05003	AMD-X	02-05-077	296-403A-130	NEW-P	02-09-097
296-150M-0049	NEW	02-03-048	296-307	PREP	02-04-107	296-403A-140	NEW-P	02-09-097
296-150M-0140	AMD	02-03-048	296-307-039	AMD-X	02-05-077	296-403A-150	NEW-P	02-09-097
296-150M-0302	NEW	02-03-048	296-307-08009	AMD-X	02-05-077	296-403A-160	NEW-P	02-09-097
DOC 15014 0204	NEW-W	02-09-070	296-307-14520	PREP	02-07-103	296-403A-170	NEW-P	02-09-097
		00.00.005	204 225 155					
296-150M-0304 296-150P-3000 296-150R-3000	AMD-P AMD-P	02-09-095 02-09-095	296-307-452 296-307-45210	NEW NEW	02-11-141 02-11-141	296-403A-180 296-403A-190	NEW-P NEW-P	02-09-097 02-09-097

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WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
296-403A-195	NEW-P	02-09-097	296-832-10010	NEW-X	02-08-080	308- 12-150	AMD-P	02-04-114
296-403A-200	NEW-P	02-09-097	296-832-10015	NEW-X	02-08-080	308- 12-150	AMD	02-11-082
296-403A-210	NEW-P	02-09-097	296-832-10020	NEW-X	02-08-080	308- 12-210	.AMD-P	02-04-114
296-403A-220	NEW-P	02-09-097	296-832-10025	NEW-X	02-08-080	308- 12-210	AMD	02-11-082
296-403A-230	NEW-P	02-09-097	296-835-100	NEW-P	02-07-100	308- 12-220	AMD-P	02-04-114
296-403A-240	NEW-P	02-09-097	296-835-110	NEW-P	02-07-100	308- 12-220	AMD	02-11-082
296-800	PREP	02-04-107	296-835-11005	NEW-P	02-07-100	308- 12-230	AMD-P	02-04-114
296-800-110	AMD-P	02-09-092	296-835-11010	NEW-P	02-07-100	308- 12-230	AMD	02-11-082
296-800-11040	NEW-P	02-09-092	296-835-11015	NEW-P	02-07-100	308- 12-240	AMD-P	02-04-114
296-800-11045	NEW-P	02-09-092	296-835-11020	NEW-P	02-07-100	308- 12-240	AMD	02-11-082
296-800-130	AMD-P	02-09-092 -	296-835-11025	NEW-P	02-07-100	308- 12-320	AMD-P	02-04-114
296-800-13005	REP-P	02-09-092	296-835-11030	NEW-P	02-07-100	308- 12-320	AMD	02-11-082
296-800-13010	REP-P	02-09-092	296-835-11035	NEW-P	02-07-100	308- 12-321	REP-P	02-04-114
296-800-13015	REP-P	02-09-092	296-835-11040	NEW-P	02-07-100	308- 12-321	REP	02-11-082
296-800-13020	NEW-P	02-09-092	296-835-11045	NEW-P	02-07-100	308- 12-322	REP-P	02-04-114 02-11-082
296-800-13025	NEW-P	02-09-092	296-835-11050	NEW-P	02-07-100	308- 12-322	REP	
296-800-13030	NEW-P	02-09-092	296-835-120	NEW-P	02-07-100	308- 12-323	REP-P REP	02-04-114 02-11-082
296-800-13035	NEW-P	02-09-092	296-835-12005	NEW-P	02-07-100	308- 12-323	REP-P	02-11-082
296-800-13040	NEW-P	02-09-092	296-835-12010	NEW-P	02-07-100	308- 12-324 308- 12-324	REP-P	02-04-114
296-800-150	AMD-P	02-09-092	296-835-12015	NEW-P	02-07-100	308- 12-325	REP-P	02-11-082
296-800-15030	NEW-P	02-09-092	296-835-12020	NEW-P	02-07-100 02-07-100	308- 12-325	REP	02-04-114
296-800-15035	NEW-P	02-09-092	296-835-12025	NEW-P	02-07-100	308- 12-323	NEW-P	02-11-082
296-800-15040	NEW-P	02-09-092	296-835-12030	NEW-P NEW-P	02-07-100	308- 12-330	NEW	02-04-114
296-800-16050	AMD-P	02-09-092	296-835-12035	NEW-P	02-07-100	308- 12-930	AMD-P	02-04-113
296-800-16070	AMD-P	02-09-092	296-835-12040 296-835-12045	NEW-P	02-07-100	308- 13-005	AMD	02-07-047
296-800-170	AMD-P	02-09-092 02-09-092	296-835-12050	NEW-P	02-07-100	308- 13-020	AMD-P	02-04-113
296-800-17020	AMD-P	02-09-092	296-835-12055	NEW-P	02-07-100	308- 13-020	AMD	02-07-047
296-800-17025	AMD-P	02-09-092	296-835-12060	NEW-P	02-07-100	308- 13-024	AMD-P	02-04-113
296-800-17030	AMD-P AMD-P	02-09-092	296-835-12065	NEW-P	02-07-100	308- 13-024	AMD	02-07-047
296-800-18010	AMD-P	02-09-092	296-835-130	NEW-P	02-07-100	308- 13-036	NEW-P	02-04-113
296-800-18015 296-800-20005	AMD-P	02-09-092	296-835-13005	NEW-P	02-07-100	308- 13-036	NEW	02-07-047
296-800-23010	AMD-P	02-09-092	296-835-13010	NEW-P	02-07-100	308- 13-050	AMD-P	02-04-113
296-800-23020	AMD-P	02-09-092	296-835-13015	NEW-P	02-07-100	308- 13-050	AMD	02-07-047
296-800-25015	AMD-P	02-09-092	296-835-13020	NEW-P	02-07-100	30813-100	AMD-P	02-04-113
296-800-28040	AMD-P	02-09-092	296-835-13025	NEW-P	02-07-100	308- 13-100	AMD	02-07-047
296-800-28045	AMD-P	02-09-092	296-835-13030	NEW-P	02-07-100	308- 13-150	PREP	02-08-033
296-800-32025	AMD-P	02-09-092	296-835-140	NEW-P	02-07-100	308- 14-085	AMD-P	02-08-074
296-800-35030	AMD-P	02-09-092	296-860-100	NEW-P	02-07-101	308- 14-085	AMD-W	02-11-057
296-800-35040	AMD-P	02-09-092	296-860-10005	NEW-P	02-07-101	308- 14-090	REP-P	02-08-074
296-800-35056	AMD-P	02-09-092	296-860-10010	NEW-P	02-07-101	308- 14-090	REP-W	02-11-057
296-800-35076	AMD-P	02-09-092	296-860-10020	NEW-P	02-07-101	308- 14-100	$\mathbf{q}_{\mathcal{E}}$ AMD-P	02-08-074
296-800-370	AMD-P	02-09-092	296-860-10025	NEW-P	02-07-101	308- 14-100	$_{ m GMAEP}$	02-11-057
296-824-100	NEW	02-11-141	296-860-10030	NEW-P	02-07-101	308- 14-120	q AMD-P	02-08-074
296-824-110	NEW	02-11-141	296-860-10040	NEW-P	02-07-101	308- 14-120	AMD-W	02-11-057
296-824-11010	NEW	02-11-141	296-860-10050	NEW-P	02-07-101	308- 14-130	AMD-P	02-08-074
296-824-11020	NEW	02-11-141	296-860-10060	NEW-P	02-07-101	308- 14-130	AMD-W	02-11-057
296-824-11050	NEW	02-11-141	296-860-10070	NEW-P	02-07-101	308- 14-135	AMD-P	02-08-074
296-824-11060	NEW	02-11-141	296-860-10100	NEW-P	02-07-101	308- 14-135	AMD-W	02-11-057
296-824-12010	NEW	02-11-141	308- 08-600	AMD	02-11-011	308- 14-210	AMD-P	02-08-074
296-824-12020	NEW	02-11-141	308- 12-010	AMD-P	02-04-114	308- 14-210	AMD-W	02-11-057
296-824-12030	NEW	02-11-141	308- 12-010	AMD	02-11-082	308- 15-040	PREP	02-05-079
296-824-12040	NEW	02-11-141	308- 12-031	AMD-P	02-04-114	308- 15-040	AMD-P	. 02-09-011
296-824-12050	NEW	02-11-141	308- 12-031	AMD	02-11-082	308- 15-140	PREP	02-05-079
296-824-12060	NEW	02-11-141	308- 12-050	AMD-P	02-04-114	308- 15-140	NEW-P	02-09-011
296-824-13010	NEW	02-11-141	308- 12-050	AMD	02-11-082	308- 17-150	AMD-P	02-03-130
296-824-13020	NEW	02-11-141	308- 12-081	AMD-P	02-04-114	308- 17-150	AMD	02-11-098
296-824-13030	NEW	02-11-141	308- 12-081	AMD	02-11-082	308- 17-310	PREP	02-07-069
296-824-14010	NEW	02-11-141	308- 12-085	AMD-P	02-04-114	308- 17-320	PREP	02-07-069
296-824-15010	NEW	02-11-141	308- 12-085	AMD	02-11-082	308- 18-150	AMD-P	02-02-096
296-832-10000	NEW-X	02-08-080	308- 12-115	AMD-P	02-04-114	308- 18-150	AMD B	02-07-068
296-832-10005	NEW-X	02-08-080	308- 12-115	AMD	02-11-082	308- 19-130	AMD-P	02-02-095

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#### **Table of WAC Sections Affected**

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
308- 19-130	AMD	02-07-067	308- 90-110	AMD	02-05-073	308- 96A-207	AMD	02-10-013
308- 19-240	AMD-P	02-02-095	308- 90-130	AMD	02-05-073	308-96A-208	AMD-P	02-05-057
308- 19-240	AMD	02-07-067	308- 90-140	AMD	02-05-073	308- 96A-208	AMD	02-10-013
308- 20-010	AMD	02-04-012	308- 90-150	AMD	02-05-073	308-96A-220	AMD-P	02-07-036
308- 20-030	REP	02-04-012	308- 90-160	AMD	02-05-073	308-96A-220	AMD	02-11-095
308- 20-040	AMD	02-04-012	308- 93	PREP	02-11-097	308-96A-275	AMD-P	02-07-014
308- 20-045	REP	02-04-012	308- 93-230	AMD	02-04-001	308- 96A-275	AMD	02-11-079
308- 20-080	AMD	02-04-012	308- 93-230	PREP	02-11-097	308- 96A-306	AMD	02-04-002
308- 20-090	AMD	02-04-012	308- 93-241	PREP	02-08-006	308- 96A-311	AMD	02-04-002
308- 20-105	AMD	02-04-012	308- 93-242	PREP	02-08-006	308-96A-312	AMD	02-04-002
308- 20-107	AMD	02-04-012	308- 93-243	PREP	02-08-006	308- 96A-313	AMD	02-04-002
308- 20-110 308- 20-120	AMD AMD	02-04-012 02-04-012	308- 93-244 308- 93-250	PREP	02-08-006	308- 96A-314	AMD	02-04-002
308- 20-120 308- 20-122	NEW	02-04-012	308- 93-270	REP AMD	02-04-001 02-04-001	308-96A-316	AMD	02-04-002
308- 20-122	REP	02-04-012	308- 93-275	NEW	02-04-001	308- 96A-530 308- 99-040	PREP	02-05-002
308- 20-150	REP	02-04-012	308- 93-280	AMD	02-04-001	308-100-140	PREP AMD	02-10-079 02-04-076
308- 20-155	REP	02-04-012	308- 93-520	AMD	02-05-059	308-103-010	NEW	02-04-070
308- 20-171	REP	02-04-012	308- 93-530	AMD	02-05-059	308-103-010	NEW	02-11-011
308- 20-172	REP	02-04-012	308- 93-540	AMD	02-05-059	308-103-030	NEW	02-11-011
308- 20-210	AMD-P	02-04-088	308- 93-700	AMD	02-05-058	308-103-040	NEW	02-11-011
308- 20-210	AMD	02-09-040	308- 93-710	AMD	02-05-058	308-103-050	NEW	02-11-011
308- 20-310	REP	02-04-012	308- 93-720	AMD	02-05-058	308-103-060	NEW	02-11-011
308- 20-590	REP	02-04-012	308- 93-730	AMD	02-05-058	308-103-070	NEW	02-11-011
308- 56A-030	PREP	02-05-019	308- 93-740	AMD	02-05-058	308-103-080	NEW	02-11-011
308- 56A-040	PREP	02-05-019	308- 93-750	AMD	02-05-058	308-103-090	NEW	02-11-011
308- 56A-056	PREP	02-05-019	308- 93-760	AMD	02-05-058	308-103-100	NEW	02-11-011
308- 56A-060	PREP	02-05-019	308- 93-770	AMD	02-05-058	308-103-110	NEW	02-11-011
308- 56A-070	PREP	02-05-015	308- 94-050	AMD-P	02-07-024	308-103-120	NEW	02-11-011
308- 56A-075	PREP	02-05-015	308- 94-050	AMD	02-11-019	308-103-130	NEW	02-11-011
308- 56A-110 308- 56A-115	PREP PREP	02-05-019	308- 96A-005	PREP	02-09-004	308-103-140	NEW	02-11-011
308- 56A-140	PREP	02-05-019 02-05-018	308- 96A-046 308- 96A-050	PREP PREP	02-05-002	308-103-150	NEW	02-11-011
308- 56A-150	PREP	02-05-018	308- 96A-056	PREP	02-05-002 02-05-002	308-103-160 308-103-170	NEW	02-11-011
308-56A-160	PREP	02-05-018	308- 96A-057	PREP	02-05-002	308-103-170	NEW NEW	02-11-011 02-11-011
308- 56A-200	PREP	02-05-018	308- 96A-062	PREP	02-09-004	308-103-190	NEW	02-11-011
308- 56A-210	PREP	02-05-019	308- 96A-064	PREP	02-09-004	308-104-018	AMD-W	02-11-011
308- 56A-215	PREP	02-05-018	308- 96A-073	PREP	02-05-002	308-124A-110	AMD-P	02-03-058
308-56A-250	PREP	02-05-016	308- 96A-074	PREP	02-05-002	308-124A-110	AMD	02-07-060
308-56A-265	PREP	02-05-016	308- 96A-080	PREP	02-05-020	308-124A-460	AMD	02-03-057
308- 56A-270	PREP	02-05-016	308- 96A-085	PREP	02-05-020	308-124A-600	AMD	02-03-080
308- 56A-275	PREP	02-05-016	308- 96A-090	PREP	02-05-020	308-124A-605	NEW	02-03-080
308- 56A-295	PREP	02-05-019	308- 96A-095	PREP	02-05-020	308-124B-150	AMD	02-03-054
308- 56A-300	PREP	02-05-014	308- 96A-098	AMD-P	02-07-014	308-124H-014	NEW	02-03-055
308- 56A-305	PREP	02-05-014	308- 96A-098	AMD	02-11-079	308-124H-025	AMD	02-03-055
308- 56A-310 308- 56A-315	PREP PREP	02-05-014 02-05-014	308- 96A-101 308- 96A-101	PREP AMD-P	02-03-086	308-124H-061	AMD	02-03-056
308- 56A-320	PREP	02-05-014	308- 96A-101	AMD-P AMD	02-08-036 02-11-096	308-124H-062	AMD B	02-03-056
308- 56A-325	PREP	02-05-014	308- 96A-110	PREP	02-03-086	308-125-085 308-125-085	AMD-P AMD	02-04-083 02-10-022
308- 56A-330	PREP	02-05-014	308- 96A-110	AMD-P	02-03-036	308-125-120	AMD	02-10-022
308- 56A-460	PREP	02-08-005	308- 96A-110	AMD	02-11-096	308-125-200	AMD	02-03-011
308- 56A-500	AMD-P	02-07-035	308- 96A-136	PREP	02-03-086	308-330-305	AMD	02-04-075
308-56A-530	NEW-P	02-07-035	308- 96A-136	AMD-P	02-08-036	308-330-307	AMD	02-04-075
308- 56A-640	PREP	02-05-013	308- 96A-136	AMD	02-11-096	308-330-320	AMD	02-04-075
308- 56A-640	PREP	02-05-017	308- 96A-161	AMD-P	02-07-014	308-330-464	AMD	02-04-075
308- 66	PREP	02-04-059	308- 96A-161	AMD	02-11-079	308-330-481	AMD	02-04-075
308- 66-110	AMD-P	02-09-057	308- 96A-201	AMD-P	02-05-057	308-330-705	AMD	02-04-075
308- 66-120	AMD-P	02-09-057	308- 96A-201	AMD	02-10-013	314- 02-010	AMD-P	02-04-115
308- 90-040	AMD	02-05-073	308- 96A-205	AMD-P	02-07-036	314- 02-015	AMD-P	02-04-115
308- 90-070	AMD	02-05-073	308- 96A-205	AMD	02-11-095	314- 02-020	AMD-P	02-04-115
308- 90-080	AMD	02-05-073	308- 96A-206	AMD-P	02-07-036	314- 02-025	AMD-P	02-04-115
308- 90-090 308- 90-100	AMD AMD	02-05-073 `02-05-073	308- 96A-206 308- 96A-207	AMD AMD-P	02-11-095	314-02-030	AMD-P	02-04-115
300- 70-100	AHD	02-03-073	JUG- 30A-201	MINID-L	02-05-057	314- 02-033	NEW-P	02-04-115

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WAC #	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
314- 02-035	AMD-P	02-04-115	315- 37-090	NEW	02-07-073	363-116-300	AMD-P	02-08-053
314- 02-045	AMD-P	02-04-115	315- 37-100	NEW-P	02-03-109	365-120-080	AMD	02-05-012
314- 02-050	REP-P	02-04-115	315- 37-100	NEW	02-07-073	365-220-005	NEW	02-07-026
314- 02-055	AMD-P	02-04-115	315- 37-110	NEW-P	02-03-109	365-220-010	NEW	02-07-026
314-02-115	AMD-P	02-04-115	315- 37-110	NEW	02-07-073	365-220-015	NEW	02-07-026
314-02-125	AMD-P	02-04-115	315- 37-120	NEW-P	02-03-109	365-220-020	NEW	02-07-026
314- 02-130	AMD-P	02-04-115	315-37-120	NEW	02-07-073	365-220-025	NEW	02-07-026
314- 11-015	AMD-P	02-04-110	316- 02-001	AMD-X	02-08-029	365-220-030	NEW	02-07-026
314- 11-015	AMD	02-11-054	316-02-135	AMD-X	02-08-029	365-220-035	NEW	02-07-026
314- 11-020	AMD-P	02-04-110	316-02-150	AMD-X	02-08-029	365-220-040	NEW	02-07-026
314- 11-020	AMD	02-11-054	316-02-170	AMD-X	02-08-029	365-220-045	NEW	02-07-026
314- 11-025	AMD-P	02-04-110	316-02-300	AMD-X	02-08-029	365-220-050	NEW	02-07-026
314- 11-030	AMD-P	02-04-110	316-02-310	REP-X	02-08-029	365-220-055	NEW NEW	02-07-026 02-07-026
314-11-030	AMD	02-11-054	316-02-340	REP-X REP-X	02-08-029 02-08-029	365-220-060 365-220-065	NEW	02-07-026
314-11-035	AMD-P AMD	02-04-110	316- 02-350 316- 02-360	REP-X	02-08-029	365-220-070	NEW	02-07-026
314- 11-035 314- 11-040	AMD-P	02-11-054 02-04-110	316- 02-370	REP-X	02-08-029	365-220-075	NEW	02-07-026
314- 11-040	AMD-P	02-04-110	316- 02-600	AMD-X	02-08-029	365-220-080	NEW	02-07-026
314- 11-045	AMD-P	02-04-110	316- 02-610	AMD-X	02-08-029	365-220-085	NEW	02-07-026
314- 11-045	AMD-F AMD	02-04-110	316- 02-620	AMD-X	02-08-029	365-220-090	NEW	02-07-026
314- 11-060	AMD-P	02-04-110	316-02-630	AMD-X	02-08-029	365-220-095	NEW	02-07-026
314-11-060	AMD	02-11-054	316-02-640	AMD-X	02-08-029	365-220-100	NEW	02-07-026
314- 11-065	AMD-P	02-04-110	316-02-650	AMD-X	02-08-029	365-220-105	NEW	02-07-026
314- 11-065	AMD	02-11-054	316-02-660	AMD-X	02-08-029	365-220-110	NEW	02-07-026
314- 11-070	AMD-P	02-04-110	316- 02-820	AMD-X	02-08-029	365-220-115	NEW	02-07-026
314- 11-070	AMD	02-11-054	316-65-005	AMD-X	02-08-029	365-220-120	NEW	02-07-026
314- 11-072	NEW-P	02-04-110	332- 10-041	AMD-X	02-11-056	365-220-125	NEW	02-07-026
314- 11-072	NEW	02-11-054	332- 30-106	AMD-P	02-03-111	365-220-130	NEW	02-07-026
314- 11-095	AMD-P	02-04-110	332- 30-115	AMD-P	02-03-111	365-220-135	NEW	02-07-026
314- 11-095	AMD	02-11-054	332- 30-139	AMD-P	02-03-111	365-220-140	NEW	02-07-026
314- 16-190	REP-P	02-04-115	332- 30-144	AMD-P	02-03-111	365-220-145	NEW	02-07-026
314- 16-196	REP-P	02-04-115	332- 30-148	AMD-P	02-03-111	365-220-150	NEW	02-07-026
314- 21-005	NEW-P	02-04-112	332- 30-171	NEW-P	02-03-111	365-220-155	NEW	02-07-026
314- 21-005	NEW	02-11-030	332-150-030	AMD-X	02-09-046	365-220-160	NEW	02-07-026
314- 21-015	NEW-P	02-04-112	356- 05-389	NEW	02-03-063	365-220-165	NEW	02-07-026
314- 21-015	NEW	02-11-030	356- 05-415	AMD-S	02-04-082	365-220-170	NEW	02-07-026
314- 21-025	NEW-P	02-04-112	356- 05-415	AMD	02-07-049	365-220-175	NEW	02-07-026
314- 21-025	NEW	02-11-030	356- 06-065	NEW-E	02-07-054	365-220-180	NEW	02-07-026
314- 60-040	AMD-P	02-04-111	356- 15-090	AMD-E	02-07-052	365-220-185	NEW	02-07-026
314- 60-040	AMD	02-10-006	356- 15-100	AMD-E	02-07-052	365-220-190	NEW AMD	02-07-026
315-06-040	AMD-P	02-07-072	356- 15-110	AMD-E	02-07-052	371- 08-320 371- 08-450		02-06-011 02-06-012
315- 06-123 315- 10	PREP	02-09-081 02-05-048	356- 18-100 356- 18-112	AMD AMD-S	02-03-061 02-04-082	371-08-485	.W. AMD	02-06-012
315- 10	PREP AMD-C	02-03-108	356- 18-112	AMD-3	02-04-082	388- 01-015	AMD W: NEW-P	02-03-119
315- 20-010	AMD-C	02-03-108	356- 18-120	AMD-E	02-07-052	388- 01-013 388- 14A-2000	PREP	02-03-119
315- 37-010	NEW-P	02-03-109	356- 26-040	AMD-L AMD	02-03-062	388- 14A-2025	PREP	02-03-010
315- 37-010	NEW	02-03-109	356- 26-130	AMD	02-03-063	388- 14A-2080	PREP	02-03-010
315- 37-010	NEW-P	02-07-079	356- 26-140	AMD-P	02-04-080	388- 14A-2105	AMD	02-07-091
315- 37-020	NEW	02-07-073	356- 26-140	AMD	02-07-050	388- 14A-2107	NEW	02-07-091
315- 37-030	NEW-P	02-03-109	356- 30-025	AMD-S	02-04-082	388- 14A-2110	AMD	02-07-091
315- 37-030	NEW	02-07-073	356- 30-025	AMD	02-07-049	388- 14A-2112	NEW	02-07-091
315- 37-040	NEW-P	02-03-109	356- 30-065	AMD-S	02-04-082	388- 14A-2114	NEW	02-07-091
315- 37-040	NEW	02-07-073	356- 30-065	AMD	02-07-049	388- 14A-2115	AMD	. 02-07-091
315- 37-050	NEW-P	02-03-109	356- 30-067	AMD-S	02-04-082	388- 14A-2116	NEW	02-07-091
315- 37-050	NEW	02-07-073	356- 30-067	AMD	02-07-049	388- 14A-2120	AMD	02-07-091
315- 37-060	NEW-P	02-03-109	356- 30-140	AMD-S	02-04-082	388- 14A-2125	AMD	02-07-091
315- 37-060	NEW	02-07-073	356- 30-140	AMD	02-07-049	388- 14A-2130	NEW	02-07-091
315- 37-070	NEW-P	02-03-109	356- 30-331	AMD-P	02-04-080	388- 14A-2135	NEW	02-07-091
315- 37-070	NEW	02-07-073	356- 30-331	AMD	02-07-050	388- 14A-2140	NEW	02-07-091
315- 37-080	NEW-P	02-03-109	356- 56-070	NEW-E	02-07-053	388- 14A-3130	AMD-P	02-03-096
315- 37-080	NEW	02-07-073	363-116-185	AMD-E	02-06-001	388- 14A-3130	AMD	02-06-098
315- 37-090	NEW-P	02-03-109	363-116-185	AMD-P	02-10-081	388- 14A-3800	PREP	02-03-010

Table [ 16 ]

#### **Table of WAC Sections Affected**

388- 15-061         NEW-P         02-03-118         388- 71-0535         REP         02-10-117         388- 76-64035         NEW-P           388- 15-065         NEW-P         02-03-118         388- 71-0540         AMD         02-10-117         388- 76-655         AMD           388- 15-069         NEW-P         02-03-118         388- 71-05910         NEW         02-10-117         388- 76-660         AMD           388- 15-073         NEW-P         02-03-118         388- 71-05911         NEW         02-10-117         388- 76-710         AMD           388- 15-077         NEW-P         02-03-118         388- 71-05912         NEW         02-10-117         388- 78A-050         AMD           388- 15-081         NEW-P         02-03-118         388- 71-05913         NEW         02-10-117         388- 78A-060         AMD           388- 15-085         NEW-P         02-03-118         388- 71-05914         NEW         02-10-117         388- 78A-265         PREP           388- 15-089         NEW-P         02-03-118         388- 71-05915         NEW         02-10-117         388- 79-010         AMD           388- 15-097         NEW-P         02-03-118         388- 71-05916         NEW         02-10-117         388- 79-030         AMD     <	N WSR#
388   14A-3925   AMD   P   02-03-096   388   15-203   PREP-W   02-05-066   388   71-05940   NEW   388   14A-4300   PREP   02-03-010   388   15-204   PREP   02-04-096   388   71-05941   NEW   388   14A-4301   PREP   02-03-010   388   15-204   PREP-W   02-05-066   388   71-05941   NEW   388   14A-4302   PREP   02-03-010   388   15-205   PREP-W   02-05-066   388   71-05941   NEW   388   14A-4302   PREP   02-03-010   388   15-205   PREP-W   02-05-066   388   71-05941   NEW   388   14A-4302   PREP   02-03-010   388   15-205   PREP-W   02-05-066   388   71-05941   NEW   388   14A-4302   PREP   02-03-010   388   15-205   PREP-W   02-05-066   388   71-05941   NEW   388   14A-4302   PREP   02-03-010   388   15-207   PREP-W   02-05-064   388   71-05941   NEW   388   14A-4552   AMD-P   02-03-096   388   15-215   PREP-W   02-05-064   388   71-05941   NEW   388   14A-5525   AMD-P   02-03-096   388   15-600   PREP-W   02-05-064   388   71-05948   NEW   388   14A-5525   AMD-P   02-03-096   388   15-600   PREP-W   02-05-064   388   71-05948   NEW   388   14A-5525   AMD-P   02-03-096   388   15-630   PREP-W   02-05-064   388   71-05950   NEW   388   14A-5530   AMD-P   02-03-096   388   15-630   PREP-W   02-05-064   388   71-05950   NEW   388   14A-5530   AMD-P   02-03-118   388   15-830   PREP-W   02-05-064   388   71-05951   NEW   388   15-005   NEW-P   02-03-118   388   71-0410   PREP   02-04-096   388   71-05951   NEW   388   15-005   NEW-P   02-03-118   388   71-0410   PREP   02-04-096   388   71-05951   NEW   388   15-013   NEW-P   02-03-118   388   71-0410   PREP   02-04-096   388   76-540   PREP   388   15-013   NEW-P   02-03-118   388   71-0410   PREP   02-04-096   388   76-59110   REP   388   15-037   NEW-P   02-03-118   388   71-0410   PREP   02-04-096   388   76-5010   REP   388   15-037   NEW-P   02-03-118   388   71-0410   PREP   02-04-096   388   76-5010   NEW-P   02-03-118   388   71-0510   PREP   02-04-096   388   76-6400   NEW   388   76-64010   NEW-P   02-03-118   388   71-0510   PREP   02-04-096   388   76-	02-10-11
1888   14A-3925   AMD   02-06-098   388   15-204   PREP   02-05-066   388-71-05941   NEW	02-10-11
388- 14A-4000 PREP 02-03-010 388- 15-204 PREP 02-04-096 388- 71-05941 NEW S88- 14A-4301 PREP 02-03-010 388- 15-205 PREP-W 02-05-066 388- 71-05942 NEW 388- 14A-4301 PREP 02-03-010 388- 15-205 PREP-W 02-05-066 388- 71-05942 NEW 388- 14A-4302 PREP 02-03-010 388- 15-205 PREP-W 02-05-066 388- 71-05942 NEW 388- 14A-4303 PREP 02-03-010 388- 15-205 PREP-W 02-05-066 388- 71-05944 NEW 388- 14A-4303 PREP 02-03-010 388- 15-207 PREP-W 02-05-066 388- 71-05945 NEW 388- 14A-4304 PREP 02-03-010 388- 15-214 PREP-W 02-05-064 388- 71-05946 NEW 388- 14A-5520 AMD P 02-03-096 388- 15-215 PREP-W 02-05-064 388- 71-05946 NEW 388- 14A-5520 AMD P 02-03-096 388- 15-219 PREP-W 02-05-064 388- 71-05949 NEW 388- 14A-5520 AMD P 02-03-096 388- 15-209 PREP-W 02-05-064 388- 71-05949 NEW 388- 14A-5525 AMD P 02-03-096 388- 15-620 PREP-W 02-05-064 388- 71-05949 NEW 388- 14A-5530 AMD P 02-03-096 388- 15-620 PREP-W 02-05-064 388- 71-05950 NEW 388- 14A-5530 AMD P 02-03-096 388- 15-630 PREP-W 02-05-064 388- 71-05950 NEW 388- 15-050 NEW-P 02-03-118 388- 15-630 PREP-W 02-05-064 388- 71-05952 NEW 388- 15-050 NEW-P 02-03-118 388- 15-890 PREP-W 02-05-064 388- 71-05952 NEW 388- 15-005 NEW-P 02-03-118 388- 71-0410 PREP 02-11-064 388- 71-05953 NEW 388- 15-011 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 PREP 388- 15-011 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 PREP 388- 15-011 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 REP 388- 15-013 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 REP 388- 15-011 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 REP 388- 15-011 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 REP 388- 15-013 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 REP 388- 15-013 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 REP 388- 15-013 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 NEW-P 02-03-118 388- 71-0410 PREP 02-04-096 388- 76-5910 NEW-P 02-03-118 388- 71-0510 PREP 02-04-096 388- 76-64015 NEW	02-10-11
388. 14A.4301         PREP         02-03-010         388-15-205         PREP.W         02-05-065         388-71-05943         NEW           388. 14A.4302         PREP         02-03-010         388-15-205         PREP.W         02-05-066         388-71-05944         NEW           388. 14A.4303         PREP         02-03-010         388-15-207         PREP.W         02-05-064         388-71-05945         NEW           388. 14A.45520         AMD P         02-03-096         388-15-215         PREP.W         02-05-064         388-71-05948         NEW           388. 14A.5520         AMD D         02-06-098         388-15-219         PREP.W         02-05-064         388-71-05948         NEW           388. 14A.5520         AMD D         02-06-098         388-15-600         PREP.W         02-05-064         388-71-05948         NEW           388. 14A.5520         AMD D         02-03-096         388-15-600         PREP.W         02-05-064         388-71-05994         NEW           388. 15-501         MBLP         02-03-096         388-15-620         PREP.W         02-05-064         388-71-05951         NEW           388. 15-010         NEW-P         02-03-118         388-15-800         PREP.W         02-05-064         388-71-05952	02-10-11
388. 14A-3302 PREP 02-03-010 388-15-205 PREP-W 02-05-066 388-71-05944 NEW 388-14A-4303 PREP 02-03-010 388-15-207 PREP-W 02-05-064 388-71-05945 NEW 388-14A-4304 PREP 02-03-010 388-15-215 PREP-W 02-05-064 388-71-05945 NEW 388-14A-5520 AMD-P 02-03-096 388-15-215 PREP-W 02-05-064 388-71-05947 NEW 388-14A-5520 AMD-P 02-03-096 388-15-219 PREP-W 02-05-064 388-71-05947 NEW 388-14A-5525 AMD-D 02-06-098 388-15-209 PREP-W 02-05-064 388-71-05948 NEW 388-14A-5525 AMD-D 02-03-096 388-15-600 PREP-W 02-05-064 388-71-05950 NEW 388-14A-5525 AMD 02-06-098 388-15-630 PREP-W 02-05-064 388-71-05950 NEW 388-14A-5530 AMD 02-06-098 388-15-630 PREP-W 02-05-064 388-71-05950 NEW 388-14A-5530 AMD-D 02-03-096 388-15-630 PREP-W 02-05-064 388-71-05950 NEW 388-15-001 NEW-P 02-03-118 388-71-0410 PREP 02-01-1064 388-71-05953 NEW 388-15-000 NEW-P 02-03-118 388-71-0410 PREP 02-11-064 388-71-0600 PREP 388-15-001 NEW-P 02-03-118 388-71-0410 PREP 02-04-096 388-76-530 AMD 92-03-118 388-71-0410 PREP 02-04-096 388-76-530 AMD 92-03-118 388-71-0445 PREP 02-04-096 388-76-5910 REP-3-388-15-017 NEW-P 02-03-118 388-71-0445 PREP 02-04-096 388-76-5910 REP-3-388-15-021 NEW-P 02-03-118 388-71-0445 PREP-W 02-05-066 388-76-6101 AMD 388-15-021 NEW-P 02-03-118 388-71-0445 PREP-W 02-04-096 388-76-6101 REP-3-388-15-021 NEW-P 02-03-118 388-71-0500 PREP 02-04-096 388-76-6400 NEW-9 388-15-045 NEW-P 02-03-118 388-71-0500 PREP 02-04-096 388-76-6400 NEW-9 02-03-118 388-71-0500 PREP 02-04-096 388-76-6400 NEW-P 02-03-118 388-71-0500 PREP 02-04-096 388-76-6400 NEW-P 02-03-118 388-71-0500 PREP 02-04-096 388-76-6400 NEW-P 02-03-118 388-71-0500 PRE	02-10-11
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388- 15-134 REP-P 02-03-118 388- 71-05930 NEW 02-10-117 388- 97-180 AMD	
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388- 15-202 PREP-W 02-05-065 388- 71-05936 NEW 02-10-117 388- 97-285 AMD-	
388- 15-202 PREP-W 02-05-066 388- 71-05937 NEW 02-10-117 388- 97-35040 AMD-	02-07-11

[ 17 ] Table

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
388- 97-550	PREP	02-11-126	388-112-0075	NEW-S	02-11-032	388-112-0385	NEW-S	02-11-031
388- 97-555	PREP	02-11-126	388-112-0080	NEW-S	02-11-032	388-112-0390	NEW-S	02-11-031
388- 97-565	AMD-P	02-07-116	388-112-0085	NEW-S	02-11-032	388-112-0395	NEW-S	02-11-031
388- 97-570	AMD-P	02-07-116	388-112-0090	NEW-S	02-11-032	388-112-0400	NEW-S	02-11-031
388- 97-570	PREP	02-11-066	388-112-0095	NEW-S	02-11-032	388-112-0405	NEW-S	02-11-031
388- 97-575	AMD-P	02-07-116	388-112-0100	NEW-S	02-11-032	388-112-0410	NEW-S	02-11-031
388- 97-580	AMD-P	02-07-116	388-112-0105	NEW-S	02-11-032	388-148	PREP	02-06-083
388- 97-585	AMD-P	02-07-116	388-112-0110	NEW-S	02-11-032	388-148-0040	PREP	02-06-083
388- 97-595	AMD-P	02-07-116	388-112-0115	NEW-S NEW-S	02-11-032 02-11-032	388-148-0045 388-148-0050	PREP PREP	02-06-083 02-06-083
388- 97-605 388- 97-610	NEW-P NEW-P	02-07-116 02-07-116	388-112-0120 388-112-0125	NEW-S	02-11-032	388-148-0060	PREP	02-06-083
388- 97-615	NEW-P	02-07-116	388-112-0130	NEW-S	02-11-032	388-148-0065	PREP	02-06-083
388- 97-620	NEW-P	02-07-116	388-112-0135	NEW-S	02-11-032	388-148-0120	PREP	02-06-083
388- 97-625	NEW-P	02-07-116	388-112-0140	NEW-S	02-11-032	388-148-0125	PREP	02-06-083
388- 97-630	NEW-P	02-07-116	388-112-0145	NEW-S	02-11-032	388-148-0220	PREP	02-06-083
388- 97-635	NEW-P	02-07-116	388-112-0150	NEW-S	02-11-032	388-148-0260	PREP	02-06-083
388- 97-640	NEW-P	02-07-116	388-112-0155	NEW-S	02-11-032	388-148-0345	PREP	02-06-083
388- 97-645	NEW-P	02-07-116	388-112-0160	NEW-S	02-11-032	388-148-0350	PREP	02-06-083
388- 97-650	NEW-P	02-07-116	388-112-0165	NEW-S	02-11-032	388-148-0462	PREP	02-06-083
388- 97-655	NEW-P	02-07-116	388-112-0170	NEW-S	02-11-032	388-148-0520	PREP	02-06-083
388- 97-660	NEW-P	02-07-116	388-112-0175	NEW-S	02-11-032	388-148-0542	PREP	02-06-083
388- 97-665	NEW-P	02-07-116	388-112-0180	NEW-S	02-11-032	388-148-0560	PREP	02-06-083
388- 97-670	NEW-P	02-07-116	388-112-0185	NEW-S	02-11-032	388-148-0585	PREP	02-06-083
388- 97-675	NEW-P	02-07-116	388-112-0190	NEW-S	02-11-032	388-148-0630	PREP	02-06-083
388- 97-680	NEW-P	02-07-116	388-112-0195	NEW-S	02-11-032	388-148-0700	PREP	02-06-083
388- 97-685	NEW-P	02-07-116	388-112-0200	NEW-S	02-11-031	388-148-0720	PREP PREP	02-06-083 02-06-083
388- 97-690 388- 97-695	NEW-P NEW-P	02-07-116 02-07-116	388-112-0205 388-112-0210	NEW-S NEW-S	02-11-031 02-11-031	388-148-0722 388-148-0725	PREP	02-06-083
388- 98-001	REP-P	02-07-116	388-112-0215	NEW-S	02-11-031	388-148-0785	PREP	02-06-083
388- 98-001 388- 98-003	REP-P	02-07-116	388-112-0220	NEW-S	02-11-031	388-148-0880	PREP	02-06-083
388- 98-010	REP-P	02-07-116	388-112-0225	NEW-S	02-11-031	388-148-0892	PREP	02-06-083
388- 98-015	REP-P	02-07-116	388-112-0230	NEW-S	02-11-031	388-148-0995	PREP	02-06-083
388- 98-020	REP-P	02-07-116	388-112-0235	NEW-S	02-11-031	388-148-1020	PREP	02-06-083
388- 98-300	REP-P	02-07-116	388-112-0240	NEW-S	02-11-031	388-148-1070	PREP	02-06-083
388- 98-320	REP-P	02-07-116	388-112-0245	NEW-S	02-11-031	388-148-1076	PREP	02-06-083
388- 98-330	REP-P	02-07-116	388-112-0250	NEW-S	02-11-031	388-148-1077	PREP	02-06-083
388- 98-340	REP-P	02-07-116	388-112-0255	NEW-S	02-11-031	388-148-1078	PREP	02-06-083
388- 98-700	REP-P	02-07-116	388-112-0260	NEW-S	02-11-031	388-148-1079	PREP	02-06-083
388- 98-750	REP-P	02-07-116	388-112-0265	NEW-S	02-11-031	388-148-1115		02-06-083
388- 98-810	REP-P	02-07-116	388-112-0270	NEW-S	02-11-031	388-148-1120	PREP	02-06-083
388- 98-830	REP-P	02-07-116 02-07-116	388-112-0275	NEW-S NEW-S	02-11-031	388-148-1205 388-148-1210	NEW-E	02-08-031
388- 98-870 388- 98-890	REP-P REP-P	02-07-116	388-112-0280 388-112-0285	NEW-S	02-11-031 02-11-031	388-148-1215	a-wan <sub>1D</sub> . a-wan <sub>EP</sub>	02-08-031 02-08-031
388-110-020	PREP	02-04-096	388-112-0290	NEW-S	02-11-031	388-148-1220	(I NEW-E	02-08-031
388-110-110	REP-S	02-11-032	388-112-0295	NEW-S	02-11-031	388-148-1225	NEW-E	02-08-031
388-110-210	PREP	02-04-096	388-112-0300	NEW-S	02-11-031	388-148-1230	NEW-E	02-08-031
388-110-230	PREP	02-04-096	388-112-0305	NEW-S	02-11-031	388-148-1235	NEW-E	02-08-031
388-112-0001	NEW-S	02-11-032	388-112-0310	NEW-S	02-11-031	388-148-1240	NEW-E	02-08-031
388-112-0005	NEW-S	02-11-032	388-112-0315	NEW-S	02-11-031	388-148-1245	NEW-E	02-08-031
388-112-0010	NEW-S	02-11-032	388-112-0320	NEW-S	02-11-031	388-148-1250	NEW-E	02-08-031
388-112-0015	NEW-S	02-11-032	388-112-0325	NEW-S	02-11-031	388-148-1255	NEW-E	02-08-031
388-112-0020	NEW-S	02-11-032	388-112-0330	NEW-S	02-11-031	388-148-1260	NEW-E	02-08-031
388-112-0025	NEW-S	02-11-032	388-112-0335	NEW-S	02-11-031	388-148-1265	NEW-E	02-08-031
388-112-0030	NEW-S	02-11-032	388-112-0340	NEW-S	02-11-031	388-148-1270	NEW-E	02-08-031
388-112-0035	NEW-S	02-11-032	388-112-0345	NEW-S	02-11-031	388-148-1275	NEW-E	02-08-031
388-112-0040	NEW-S	02-11-032	388-112-0350	NEW-S	02-11-031	388-148-1280	NEW-E	02-08-031
388-112-0045	NEW-S	02-11-032	388-112-0355	NEW-S	02-11-031	388-148-1285	NEW-E	02-08-031
388-112-0050	NEW-S	02-11-032	388-112-0360	NEW-S	02-11-031	388-148-1290	NEW-E	02-08-031
388-112-0055 388-112-0060	NEW-S	02-11-032	388-112-0365	NEW-S NEW-S	02-11-031	388-148-1295	NEW-E	02-08-031
388-112-0060 388-112-0065	NEW-S NEW-S	02-11-032 02-11-032	388-112-0370 388-112-0375	NEW-S	02-11-031 02-11-031	388-148-1300 388-150-090	NEW-E PREP	02-08-031 02-06-087
	MEM-2	UZ-11-UJZ	J00-112-UJ/J	IAE M-2	02-11-031	760-170-070	FACE	UZ-UD-UĞ/

Table [18]

### **Table of WAC Sections Affected**

WAC#	ACTION	WSR#	WAC #	ACTION	WSR#	WAC#	ACTION	WSR#
388-151-020	AMD-P	02-03-095	388-290-0160	AMD-P	02-09-064	388-406-0060	AMD-P	02-09-065
388-151-090	PREP	02-06-087	388-290-0165	PREP	02-04-097	388-406-0065	AMD-P	02-09-065
388-151-090	AMD-P	02-10-092	388-290-0165	AMD-P	02-09-064	388-410-0020	AMD-P	02-03-100
388-151-097	AMD-P	02-03-095	388-290-0167	NEW-P	02-09-064	388-410-0020	AMD	02-06-090
388-151-230	AMD-P	02-03-095	388-290-0180	PREP	02-04-097	388-410-0025	AMD-P	02-03-100
388-155-090	PREP	02-06-087	388-290-0190	PREP	02-04-097	388-410-0025	AMD	02-06-090
388-155-090	AMD-P	02-10-092	388-290-0190	AMD-P	02-08-060	388-410-0030	AMD-P	02-03-100
388-155-320	AMD-P	02-03-095	388-290-0195	NEW-W	02-11-023	388-410-0030	AMD	02-06-090
388-265-1150	REP-P	02-11-131	388-290-0200	PREP	02-04-097	388-410-0033	NEW-P	02-03-100
388-265-1155	REP-P	02-11-131	388-290-0200	AMD-P	02-08-060	388-410-0033	NEW	02-06-090
388-265-1200	REP-P	02-11-131	388-290-0205	PREP	02-04-097	388-412-0025	PREP	02-11-063
388-265-1250	REP-P	02-11-131	388-290-0205	AMD-P	02-08-060	388-414-0001	PREP	02-09-074
388-265-1275	REP-P	02-11-131	388-290-0225	PREP	02-04-097	388-416-0035	PREP	02-07-111
388-265-1300	REP-P	02-11-131	388-290-0225	AMD-P	02-08-060	388-418	PREP	02-10-073
388-265-1375	REP-P	02-11-131	388-290-0230	PREP	02-04-097	388-418-0020	AMD-P	02-10-093
388-265-1450	REP-P	02-11-131	388-290-0230	AMD-P	02-08-060	388-422	PREP	02-11-060 02-10-073
388-265-1500	REP-P	02-11-131	388-290-0240	PREP	02-04-097	388-424	PREP	
388-265-1600	REP-P	02-11-131	388-290-0240	AMD-P	02-08-060	388-424-0010 388-434-0010	AMD AMD-S	02-03-008 02-05-068
388-265-1650	REP-P	02-11-131	388-290-0245 388-290-0245	PREP AMD-P	02-04-097 02-08-060	388-434-0010	AMD-S	02-03-068
388-290-0010	PREP	02-04-097 02-08-032	388-290-0255	AMD-P	02-08-000	388-434-0010	AMD-S	02-09-003
388-290-0010	AMD-E	02-08-032	388-290-0270	PREP	02-04-097	388-434-0015	NEW-S	02-05-068
388-290-0010	AMD-P PREP	02-11-128	388-290-0270	AMD-P	02-04-097	388-434-0015	NEW-S	02-09-063
388-290-0015	AMD-P	02-04-097	388-290-0270	AMD-P	02-08-000	388-434-0015	NEW-W	02-11-058
388-290-0015 388-290-0020	PREP	02-04-097	388-310-0200	AMD-P	02-10-138	388-434-0020	NEW-S	02-05-068
388-290-0020	AMD-P	02-04-097	388-310-0350	NEW-P	02-09-076	388-434-0020	NEW-S	02-09-063
388-290-0025	PREP	02-04-097	388-310-0400	AMD-P	02-09-076	388-434-0020	NEW-W	02-11-058
388-290-0035	- AMD-P	02-04-057	388-310-0500	AMD-P	02-09-076	388-434-0025	NEW-S	02-05-068
388-290-0040	PREP	02-04-097	388-310-0600	AMD	02-04-058	388-434-0025	NEW-S	02-09-063
388-290-0040	AMD-P	02-08-060	388-310-0600	AMD-P	02-09-076	388-434-0025	NEW-W	02-11-058
388-290-0045	PREP	02-04-097	388-310-0800	AMD-P	02-07-112	388-444	PREP	02-10-073
388-290-0045	AMD-P	02-08-060	388-310-0800	AMD	02-11-130	388-448-0180	PREP	02-11-125
388-290-0050	PREP	02-04-097	388-310-0900	AMD-P	02-09-076	388-450	PREP	02-10-073
388-290-0050	AMD-P	02-08-060	388-310-1000	AMD-P	02-09-077	388-450	PREP	02-11-062
388-290-0055	PREP	02-04-097	388-310-1050	AMD-P	02-09-077	388-450	PREP	02-11-065
388-290-0055	AMD-P	02-08-060	388-310-1300	AMD-S	02-08-058	388-450-0015	AMD-P	02-09-062
388-290-0075	AMD-E	02-08-032	388-310-1300	AMD-W	02-08-061	388-450-0045	AMD	02-03-019
388-290-0075	AMD-P	02-11-128	388-310-1450	AMD-P	02-10-138	388-450-0055	AMD-P	02-09-062
388-290-0080	PREP	02-04-097	388-310-1600	AMD-P	02-09-075	388-450-0070	AMD	02-03-020
388-290-0085	PREP	02-04-097	388-310-1650	NEW-P	02-10-076	388-450-0075	PREP	02-09-049
388-290-0085	AMD-E	02-08-032	388-310-1700	AMD-P	02-09-077	388-450-0116	AMD-P	02-09-061
388-290-0085	AMD-P	02-11-128	388-310-1800	AMD-P	02-09-077	388-450-0135	PREP	02-08-054
388-290-0095	PŔEP	02-04-097	388-400-0030	AMD-E	02-04-095	388-450-0140	AMD-P	02-03-021
388-290-0095	AMD-P	02-08-060	388-400-0030	AMD-P	02-05-069	388-450-0140	AMD	02-06-089
388-290-0105	PREP	02-04-097	388-400-0030	AMD	02-09-051	388-450-0190	PREP	02-09-073
388-290-0105	AMD-P	02-08-060	388-406	PREP	02-03-091	388-450-0195	PREP	02-09-073
388-290-0120	PREP	02-04-097	388-406-0005	AMD-P	02-08-059	388-450-0210	AMD	02-03-009
388-290-0120	AMD-P	02-08-060	388-406-0005	AMD	02-11-137	388-450-0230	AMD-E	02-11-052
388-290-0125	PREP	02-04-097	388-406-0010	AMD-P	02-08-059	388-452-0005	PREP	02-03-091
388-290-0125	AMD-P	02-08-060	388-406-0010	AMD	02-11-137	388-452-0005	AMD-P	02-09-065
388-290-0130	PREP	02-04-097	388-406-0012	NEW-P	02-08-059	388-454	PREP	02-11-061
388-290-0130	AMD-P	02-08-060	388-406-0012	NEW	02-11-137	388-458-0030	AMD-P	02-10-093
388-290-0135	PREP	02-04-097	388-406-0025	REP-P	02-08-059	388-460-0001	AMD-P	02-11-131
388-290-0135	AMD-P	02-08-060	388-406-0025	REP	02-11-137	388-460-0020	NEW-P	02-11-131
388-290-0143	NEW-P	02-09-064	388-406-0030	AMD-P	02-08-059	388-460-0025	NEW-P NEW-P	02-11-131 02-11-131
388-290-0145	PREP	02-04-097	388-406-0030	AMD P	02-11-137	388-460-0030	NEW-P	02-11-131
388-290-0145	AMD-P	02-09-064	388-406-0035	AMD-P AMD	02-08-059 02-11-137	388-460-0035 388-460-0040	NEW-P	02-11-131
388-290-0150	PREP	02-04-097 02-09-064	388-406-0035 388-406-0040	AMD-P	02-09-065	388-460-0045	NEW-P	02-11-131
388-290-0150	AMD-P PREP	02-09-064	388-406-0045	AMD-P AMD-P	02-09-065	388-460-0043	NEW-P	02-11-131
388-290-0155	AMD-P	02-04-097	388-406-0043	AMD-P	02-09-065	388-460-0055	NEW-P	02-11-131
388-290-0155			388-406-0055	AMD-P	02-09-065	388-460-0060	NEW-P	02-11-131
388-290-0160	PREP	02-04-097	1 200-400-0033	VIAID-L	U2-U7-UUJ	1 200-400-0000	MEW-P	02-11-131

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WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
388-460-0065	NEW-P	02-11-131	388-530	PREP	02-03-093	388-551-2130	AMD-P	02-08-089
388-460-0070	NEW-P	02-11-131	388-530	PREP-W	02-03-116	388-551-2200	AMD-P	02-08-089
388-466-0010	REP	02-04-057	388-531-0050	AMD-X	02-05-042	388-551-2210	AMD-P	02-08-089
388-466-0120	NEW	02-04-057	388-532	PREP	02-09-048	388-551-2220	AMD-P	02-08-089
388-466-0140	NEW	02-04-057	388-533-0400	AMD-P	02-03-098	388-555	PREP	02-11-127
388-470-0075	AMD-E	02-10-091	388-533-0400	AMD	02-07-043	388-561-0100	PREP	02-07-109
388-472-0005	PREP	02-03-091	388-533-1000	PREP	02-07-108	388-730	PREP	02-11-142
388-472-0005	AMD-P	02-09-065	388-534-0100	AMD-P	02-03-099	388-805	PREP	02-10-112
388-474	PREP	02-03-094	388-534-0100	AMD	02-07-016	388-805-005	AMD-E	02-07-015
388-474	PREP	02-10-074	388-534-0200	NEW-P	02-03-099	388-805-030	AMD-E	02-07-015
388-474-0001	AMD-P	02-07-115	388-534-0200	NEW	02-07-016	388-805-035	NEW-E	02-07-015
388-474-0001	AMD	02-11-033	388-535-1010	REP-P	02-08-088	388-805-040	NEW-E	02-07-015
388-474-0005	AMD-P	02-07-115	388-535-1050	AMD-P	02-08-088	388-805-065	AMD-E	02-07-015
388-474-0005	AMD	02-11-033	388-535-1060	AMD-P	02-08-088	388-805-145	AMD-E	02-07-015
388-474-0010	AMD-P	02-07-115	388-535-1070	NEW-P	02-08-088	388-805-205	AMD-E	02-07-015
388-474-0010	AMD	02-11-033	388-535-1080	AMD-P	02-08-088	388-805-300	AMD-E	02-07-015
388-474-0012	NEW-P	02-07-115	388-535-1100	AMD-P	02-08-088	388-805-710	AMD-E	02-07-015
388-474-0012	NEW-W	02-10-072	388-535-1120	NEW-P	02-08-088	388-805-720	AMD-E	02-07-015 02-07-015
388-474-0015	AMD-P	02-07-115	388-535-1150	REP-P	02-08-088	388-805-730	AMD-E AMD-E	02-07-015
388-474-0015	AMD	02-11-033	388-535-1200	AMD-P	02-08-088	388-805-740	AMD-E	02-07-015
388-474-0020	AMD-P	02-07-115	388-535-1220	AMD-P	02-08-088 02-08-088	388-805-750 388-825	PREP	02-07-013
388-474-0020	AMD	02-11-033	388-535-1230 388-535-1240	AMD-P AMD-P	02-08-088	388-825	PREP	02-03-088
388-475-1250 388-478	PREP PREP	02-10-075	388-535-1245	NEW-P	02-08-088	388-825-020	PREP	02-07-107
	REP	02-10-073 02-05-004	388-535-1245	NEW-F	02-11-136	388-825-020	AMD-P	02-07-107
388-478-0026 388-478-0055	AMD-P	02-03-004	388-535-1260	REP-P	02-08-088	388-825-025	PREP	02-11-143
388-478-0055	AMD-F AMD-E	02-07-113	388-535-1300	REP-P	02-03-033	388-825-025	AMD-P	02-07-107
388-478-0055	AMD-E	02-10-072	388-535-1300	REP	02-11-136	388-825-030	PREP	02-05-088
388-478-0060	PREP	02-10-072	388-535-1350	AMD-P	02-08-088	388-825-030	PREP-W	02-07-087
388-478-0070	AMD-P	02-06-096	388-535-1400	AMD-P	02-08-088	388-825-030	PREP	02-07-107
388-478-0070	AMD	02-10-116	388-535-1450	AMD-P	02-08-088	388-825-030	AMD-P	02-11-143
388-478-0075	AMD-P	02-03-097	388-535-1500	AMD-P	02-08-088	388-825-035	PREP	02-05-088
388-478-0075	AMD	02-07-090	388-535-1550	AMD-P	02-08-088	388-825-035	PREP-W	02-07-087
388-478-0080	AMD-P	02-06-096	388-540	PREP	02-06-086	388-825-035	PREP	02-07-107
388-478-0080	AMD	02-10-116	388-543	PREP	02-10-139	388-825-035	AMD-P	02-11-143
388-478-0085	PREP	02-08-056	388-543-1000	AMD-S	02-10-115	388-825-040	PREP	02-05-088
388-478-0085	AMD-E	02-08-057	388-543-1100	AMD-S	02-10-115	388-825-040	PREP-W	02-07-087
388-484-0005	AMD-P	02-09-075	388-543-1225	PREP	02-10-139	388-825-040	PREP	02-07-107
388-484-0006	NEW-P	02-09-075	388-543-1300	AMD-S	02-10-115	388-825-045	PREP	02-05-088
388-490-0005	PREP	02-03-091	388-543-2200	AMD-S	02-10-115	388-825-045	PREP-W	02-07-087
388-492	PREP	02-08-055	388-544	PREP	02-06-085	388-825-045	PREP	02-07-107
388-501-0213	PREP	02-07-110	388-550	PREP	02-03-092	388-825-045	⊥! AMD-P	02-11-143
388-502-0160	AMD-P	02-09-079	388-550	PREP-W	02-03-115	388-825-050	qa; prep	02-07-107
388-513-1301	AMD	02-09-052	388-550	PREP	02-06-084	388-825-050	J: AMD-P	02-11-143
388-513-1350	AMD-E	02-10-017	388-550	PREP	02-06-088	388-825-055	PREP	02-07-107
388-513-1350	PREP	02-10-041	388-550-2565	NEW-P	02-10-113	388-825-055	AMD-P	02-11-143
388-513-1365	PREP	02-07-109	388-550-2570	NEW-P	02-10-113	388-825-065	PREP	02-07-107
388-513-1365	PREP	02-09-050	388-550-2575	NEW-P	02-10-113	388-825-080	PREP	02-07-107
388-513-1380	AMD-E	02-10-017	388-550-2580	NEW-P	02-10-113	388-825-100	PREP	02-07-107
388-513-1380	PREP	02-10-041	388-550-2585	NEW-P	02-10-113	388-825-100	AMD-P	02-11-143
388-515	PREP	02-11-064	388-550-2590	NEW-P	02-10-113	388-825-120	PREP	02-07-107
388-515-1505	AMD	02-05-003	388-550-2595	NEW-P	02-10-113	388-825-120	AMD-P	02-11-143
388-517-0300	AMD-P	02-07-114	388-550-2596	NEW-P	02-10-113	388-825-170	PREP	02-07-107
388-517-0300	AMD	02-11-074	388-550-2598	NEW-P	02-10-114	388-825-180	PREP	02-07-107
388-523-0100	AMD-P	02-06-097	388-550-4800	AMD-E	02-09-053	388-825-190	PREP	02-07-107
388-523-0100	AMD	02-10-018	388-551-2000	AMD-P AMD-P	02-08-089 02-08-089	388-825-200 388-825-205	PREP PREP	02-07-107 02-07-107
388-523-0110	NEW-P	02-06-097	388-551-2010 388-551-2020	AMD-P	02-08-089	388-825-205	AMD-P	02-07-107
388-523-0110 388-523-0120	NEW NEW-P	02-10-018 02-06-097	388-551-2020 388-551-2030	NEW-P	02-08-089	388-825-210	- PREP	02-11-143
388-523-0120	NEW-P	02-06-097	388-551-2100	AMD-P	02-08-089	388-825-210	- PREP AMD-P	02-07-107
388-523-0120	NEW-P	02-10-018	388-551-2110	AMD-P	02-08-089	388-825-220	PREP	02-11-143
388-523-0130	NEW-P	02-10-018	388-551-2120	AMD-P	02-08-089	388-825-222	PREP	02-07-107
300-323-0130	NEW	UZ-1U-U18	1 300-331-2120	WIND-L	02-00-007	1 300-023-222	FREP	02-07-107

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### **Table of WAC Sections Affected**

WAC#	ACTION	WSR#	WAC#	ACTION	WSR #	WAC#	ACTION	WSR#
388-825-224	PREP	02-07-107	390- 17-030	AMD-P	02-09-080	415-104-0111	PREP	02-05-025
388-825-226	PREP	02-07-107	390- 17-060	AMD	02-03-018	415-104-0111	PREP	02-06-041
388-825-228	PREP	02-07-107	390- 17-060	AMD-P	02-09-080	415-104-0112	PREP	02-05-025
388-825-230	PREP	02-07-107	390- 17-315	AMD	02-03-018	415-104-0112	PREP	02-06-041
388-825-232	PREP	02-07-107	390- 18-025	NEW-P	02-09-080	415-104-0113	PREP	02-05-025
388-825-234	PREP	02-07-107	390- 18-040	AMD	02-03-018	415-104-0113	PREP	02-06-041
388-825-234	AMD-P	02-11-143	390- 20-020	AMD	02-03-018	415-104-0114	PREP	02-05-025
388-825-236	PREP	02-07-107	390- 20-105	AMD	02-03-018	415-104-0114	PREP	02-06-041
388-825-238	PREP	02-07-107	390- 20-110	AMD	02-03-018	415-104-0115	PREP	02-05-025
388-825-240	PREP	02-07-107	390- 20-111	AMD	02-03-018	415-104-0115	PREP	02-06-041
388-825-242	PREP	02-07-107	390- 20-120	AMD	02-03-018	415-104-0117	PREP	02-05-025
388-825-244	PREP	02-07-107	390- 20-125	AMD	02-03-018	415-104-0117	PREP	02-06-041
388-825-246	PREP	02-07-107	390- 20-130	AMD	02-03-018	415-104-0118	PREP	02-05-025
388-825-248	PREP	02-07-107	390- 24-200	AMD	02-03-018	415-104-0118	PREP	02-06-041
388-825-248	AMD-P	02-11-143	392-120	PREP	02-08-021	415-104-0120	PREP	02-05-025
388-825-250	PREP	02-07-107	392-121 392-121	PREP	02-10-009	415-104-0120	PREP	02-06-041
388-825-250	AMD-P PREP	02-11-143 02-07-107	392-121	PREP PREP	02-10-010	415-104-0121	PREP	02-05-025
388-825-252			392-122 392-122-900	AMD	02-10-011 02-04-023	415-104-0121	PREP PREP	02-06-041
388-825-252 388-825-254	AMD-P PREP	02-11-143 02-07-107	392-122-900	PREP	02-04-023	415-104-0122 415-104-0122	PREP	02-05-025 02-06-041
388-825-256	PREP	02-07-107	392-139-241	NEW-W	02-10-008	415-104-0125	PREP	02-05-041
388-825 <b>-</b> 270	AMD-P	02-07-107	392-139-241	NEW-W	02-05-031	415-104-0125	PREP	02-03-023
388-825-278	AMD-P	02-11-143	392-140-605	AMD	02-05-036	415-104-108	PREP	02-00-041
388-830-015	AMD-P	02-11-143	392-140-609	AMD	02-05-036	415-104-111	AMD-P	02-11-078
388-830-019	AMD-P	02-11-143	392-140-613	AMD	02-05-036	415-108-010	PREP	02-16-033
388-830-025	AMD-P	02-11-143	392-140-616	AMD	02-05-036	415-108-040	REP-P	02-09-055
388-830-035	AMD-P	02-11-143	392-140-625	AMD	02-05-036	415-108-181	NEW-P	02-10-098
388-835-0110	AMD-P	02-11-143	392-140-630	AMD	02-05-036	415-108-182	NEW-P	02-10-098
388-835-0180	AMD-P	02-11-143	392-140-650	AMD	02-05-036	415-108-183	NEW-P	02-10-098
388-835-0265	AMD-P	02-11-143	392-140-680	AMD	02-05-036	415-108-315	AMD	02-03-120
388-835-0395	AMD-P	02-11-143	392-140-903	AMD	02-09-024	415-108-324	AMD	02-03-120
388-835-0575	AMD-P	02-11-143	392-140-904	NEW	02-09-024	415-108-340	AMD	02-03-120
388-835-0745	AMD-P	02-11-143	392-140-905	AMD	02-09-024	415-108-340	PREP	02-11-078
388-835-0755	AMD-P	02-11-143	392-140-907	AMD	02-09-024	415-108-425	NEW	02-03-120
388-850	AMD-P	02-11-143	392-140-908	AMD	02-09-024	415-108-441	AMD	02-03-120
388-850-015	AMD-P	02-11-143	392-140-910	AMD	02-09-024	415-108-443	AMD	02-03-120
388-850-025	AMD-P	02-11-143	392-140-911	REP	02-09-024	415-108-445	AMD	02-03-120
388-850-050	AMD-P	02-11-143	392-140-912	AMD	02-09-024	415-108-456	AMD	02-03-120
388-853 <b>-</b> 010	AMD-P	02-11-143	392-140-970	NEW-S	02-10-007	415-108-458	AMD	02-03-120
388-853-030	AMD-P	02-11-143	392-140-971	NEW-S	02-10-007	415-108-464	AMD	02-03-120
388-853-035	AMD-P	02-11-143	392-140-972	NEW-S	02-10-007	415-108-465	AMD	02-03-120
388-853-080	AMD-P	02-11-143	392-140-973	NEW-S	02-10-007	415-108-466	AMD	02-03-120
390	PREP	02-04-049	392-140-974	NEW-S	02-10-007	415-108-480	AMD	02-03-120
390- 05-200	AMD	02-03-018	392-141-200	AMD	02-04-023	415-108-491	AMD	02-03-120
390- 05-205	AMD	02-03-018 02-03-018	392-300-015	AMD	02-06-044	415-108-570	AMD AMD	02-03-120 02-03-120
390- 12-040	AMD		392-300-050	AMD	02-06-044 02-06-044	415-108-640 415-108-679	AMD	02-03-120
390- 13-010	AMD AMD	02-03-018 02-03-018	392-300-055 392-300-060	AMD AMD	02-06-044	415-108-690	AMD	02-03-120
390- 13-100	AMD	02-03-018	415- 02	PREP	02-08-063	415-108-720	AMD	02-03-120
390- 14-025 390- 14-045	AMD	02-03-018	415- 02-130	AMD	02-03-120	415-108-727	NEW	02-03-120
	AMD	02-03-018	415- 04-017	AMD-P	02-03-120	415-108-727	NEW	02-03-120
390- 16-032 390- 16-033	AMD	02-03-018	415- 08-015	AMD-P	02-09-055	415-108-830	AMD	02-03-120
390- 10-033 390- 16-038	AMD	02-03-018	415- 08-420	AMD-P	02-09-055	415-108-980	NEW	02-03-120
390- 10-038 390- 16-050	AMD	02-03-018	415- 10-010	AMD	02-03-120	415-108-980	AMD-P	02-03-120
390- 16-050 390- 16-050	AMD-P	02-09-010	415- 10-020	AMD	02-03-120	415-110-010	PREP	02-05-036
390- 16-055	AMD-P	02-09-080	415- 10-030	AMD	02-03-120	415-110-010	PREP	02-05-023
390- 16-055 390- 16-060	AMD	02-03-018	415- 10-080	AMD	02-03-120	415-110-0102	PREP	02-05-041
390- 16-060	AMD-P	02-09-080	415- 10-100	AMD	02-03-120	415-110-0102	PREP	02-06-041
390- 16-105	AMD	02-03-018	415- 10-110	REP	02-03-120	415-110-0103	PREP	02-05-025
390- 16-226	AMD	02-03-018	415-103	PREP	02-06-092	415-110-0103	PREP	02-06-041
390-16-308	AMD	02-03-018	415-104-011	PREP	02-05-025	415-110-0104	PREP	02-05-025
	REP-P	02-09-080	415-104-011	PREP	02-06-041	415-110-0104	PREP	02-06-041

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415-110-0108	PREP	02-05-025	415-113-0303	PREP	02-06-041	434-236-090	DECOD	02-09-007
415-110-0108	PREP	02-06-041	415-113-0304	PREP	02-06-041	434-236-100	AMD-P	02-03-133
415-110-0109	PREP	02-05-025	415-113-0305	PREP	02-06-041	434-236-100	AMD	02-07-028
415-110-0109	PREP	02-06-041	415-113-0306	PREP	02-06-041	434-236-100	DECOD	02-09-007
415-110-0110	PREP	02-05-025	415-113-0307	PREP	02-06-041	434-236-110	AMD-P	02-03-133
415-110-0110	PREP	02-06-041	415-113-0308	PREP	02-06-041	434-236-110	AMD	02-07-028
415-110-0111	PREP	02-05-025	415-113-0309	PREP	02-06-041	434-236-110	DECOD	02-09-007
415-110-0111	PREP	02-06-041	415-113-0310	REP	02-03-120	434-236-120	DECOD	02-09-007
415-110-050	NEW-P	02-10-098	415-113-041	AMD	02-03-120	434-236-140	AMD-P	02-03-133
415-110-060	NEW-P	02-10-098	415-113-042	AMD	02-03-120 02-03-120	434-236-140 434-236-140	AMD DECOD	02-07-028 02-09-007
415-110-070	NEW-P	02-10-098	415-113-065	AMD AMD	02-03-120	434-236-160	DECOD	02-09-007
415-110-340	PREP NEW	02-11-078 02-03-120	415-113-070 415-113-090	AMD	02-03-120	434-236-170	DECOD	02-09-007
415-110-815 415-110-910	AMD	02-03-120	415-113-200	AMD	02-03-120	434-236-180	AMD-P	02-03-133
415-111-100	AMD	02-03-120	415-200-030	AMD	02-03-120	434-236-180	AMD	02-07-028
415-111-110	AMD	02-03-120	415-501-305	REP-W	02-11-028	434-236-180	DECOD	02-09-007
415-111-220	PREP	02-08-063	415-501-495	AMD-P	02-09-055	434-236-200	DECOD	02-09-007
415-111-310	AMD	02-03-120	420- 12-060	AMD	02-05-050	434-236-210	REP-P	02-03-133
415-111-400	NEW	02-03-120	434-208-060	AMD-P	02-11-133	434-236-210	REP	02-07-028
415-111-410	NEW	02-03-120	434-215-005	RECOD	02-09-007	434-238-010	RECOD	02-09-007
415-111-440	NEW	02-03-120	434-215-012	RECOD	02-09-007	434-238-020	RECOD	02-09-007
415-111-450	NEW	02-03-120	434-215-012	AMD-P	02-11-133	434-238-025	RECOD	02-09-007
415-111-450	AMD-P	02-09-055	434-215-020	RECOD	02-09-007	434-238-030	RECOD	02-09-007
415-112-015	PREP	02-05-025	434-215-050	RECOD	02-09-007	434-238-055	RECOD	02-09-007
415-112-015	PREP	02-06-041	434-215-060	RECOD	02-09-007	434-238-060	RECOD	02-09-007
415-112-0151	PREP	02-05-025	434-215-070	NEW-P	02-11-133	434-238-070	RECOD	02-09-007
415-112-0151	PREP	02-06-041	434-215-080	NEW-P	02-11-133	434-238-080	RECOD	02-09-007
415-112-0154	PREP	02-05-025	434-215-090	NEW-P	02-11-133	434-238-090	RECOD	02-09-007
415-112-0154	PREP	02-06-041	434-215-110	NEW-P	02-11-133	434-238-100	RECOD	02-09-007
415-112-0156	PREP	02-05-025	434-228-005	DECOD	02-09-007	434-238-110	RECOD	02-09-007
415-112-0156	PREP	02-06-041	434-228-012	DECOD	02-09-007	434-238-120	RECOD	02-09-007
415-112-0157	PREP	02-05-025	434-228-020	DECOD	02-09-007	434-238-140	RECOD	02-09-007
415-112-0157	PREP	02-06-041	434-228-050	DECOD	02-09-007	434-238-160	RECOD	02-09-007
415-112-0158	PREP	02-05-025	434-228-060	DECOD	02-09-007	434-238-170	RECOD	02-09-007
415-112-0158	PREP	02-06-041	434-230-140	NEW-P	02-03-134	434-238-180	RECOD	02-09-007
415-112-0159	PREP	02-05-025	434-230-140	NEW	02-07-029	434-238-200	RECOD	02-09-007
415-112-0159	PREP	02-06-041	434-236-010	DECOD	02-09-007	434-240-010	'AMD-P	02-03-133
415-112-0160	PREP	02-05-025	434-236-020	DECOD	02-09-007	434-240-010	AMD	02-07-028
415-112-0160	PREP	02-06-041	434-236-025	NEW-P	02-03-133	434-240-020	AMD-P	02-03-133
415-112-0161	PREP	02-05-025	434-236-025	NEW	02-07-028	434-240-020 434-240-025	AMD	02-07-028
415-112-0161	PREP	02-06-041	434-236-025	DECOD	02-09-007	434-240-025	REP-P REP	02-03-133
415-112-0162	PREP PREP	02-05-025 02-06-041	434-236-030 434-236-030	AMD-P AMD	02-03-133 02-07-028	434-240-023	NEW-P	02-07-028 02-03-133
415-112-0162	PREP	02-05-041	434-236-030	DECOD	02-07-028	434-240-027		02-03-133
415-112-0163	PREP	02-05-025	434-236-040	REP-P	02-03-133	434-240-060	NEW AMD-P	02-07-028
415-112-0163 415-112-0165	PREP	02-05-025	434-236-040	REP	02-03-133	434-240-060	AMD	02-03-133
415-112-0165	PREP	02-06-041	434-236-050	REP-P	02-07-028	434-240-080	NEW-P	02-07-020
415-112-0165	PREP	02-05-025	434-236-050	REP	02-03-133	434-240-080	NEW	02-03-133
415-112-0167	PREP	02-06-041	434-236-055	NEW-P	02-07-028	434-240-090	AMD-P	02-03-133
415-112-0107	PREP	02-11-078	434-236-055	NEW	02-07-028	434-240-090	AMD	02-03-133
415-112-050	NEW-P	02-10-098	434-236-055	DECOD	02-09-007	434-240-120	AMD-P	02-03-133
415-112-060	NEW-P	02-10-098	434-236-060	AMD-P	02-03-133	434-240-120	AMD	02-07-028
415-112-070	NEW-P	02-10-098	434-236-060	AMD	02-07-028	434-240-130	AMD-P	02-03-133
415-112-250	AMD	02-03-120	434-236-060	DECOD	02-09-007	434-240-130	AMD	02-07-028
415-112-400	AMD	02-03-120	434-236-070	AMD-P	02-03-133	434-240-150	AMD-P	02-03-133
415-112-400	AMD	02-03-120	434-236-070	AMD	02-07-028	434-240-150	AMD	02-07-028
415-112-413	AMD	02-03-120	434-236-070	DECOD	02-09-007	434-240-160	REP-P	02-03-133
415-112-725	AMD	02-03-120	434-236-080	AMD-P	02-03-133	434-240-160	REP	02-07-028
415-113-030	PREP	02-06-041	434-236-080	AMD	02-07-028	434-240-190	AMD-P	02-03-133
415-113-0301	PREP	02-06-041	434-236-080	DECOD	02-09-007	434-240-190	AMD	02-07-028
	PREP	02-06-041	434-236-090	AMD-P	02-03-134	434-240-200	AMD-P	02-03-134
415-113-0302								

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WAC#	ACTION	WCD #	I WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
WAC#	ACTION	WSR #	WAC# 434-333-150	RECOD	02-09-007	458- 19-050	PREP	02-10-110
434-240-205	AMD-P	02-03-133	l	RECOD	02-09-007	458- 19-055	PREP	02-10-110
434-240-205	AMD D	02-07-028	434-333-155	RECOD	02-09-007	458- 19-060	PREP	02-10-110
434-240-230	AMD-P	02-03-133	434-333-160	RECOD	02-09-007	458- 19-065	PREP	02-10-110
434-240-230	AMD B	02-07-028	434-333-165 434-333-170	RECOD	02-09-007	458- 19-003	PREP	02-10-110
434-240-235	AMD-P AMD	02-03-133	434-333-170	RECOD	02-09-007	458- 19-075	PREP	02-10-110
434-240-235	AMD-P	02-07-028	434-333-173	DECOD	02-09-007	458- 19-080	PREP	02-10-110
434-240-240		02-03-134	434-334-015	DECOD	02-09-007	458- 19-085	PREP	02-10-110
434-240-240	AMD B	02-07-029	434-334-013	DECOD	02-09-007	458- 19-550	PREP	02-10-110
434-240-250	AMD-P	02-03-133	434-334-025	DECOD	02-09-007	458- 20-122	PREP	02-10-110
434-240-250	AMD B	02-07-028	1	DECOD	02-09-007	458- 20-125	PREP	02-11-123
434-240-320	AMD-P	02-03-133	434-334-030	DECOD		458- 20-151	PREP	02-11-146
434-240-320	AMD	02-07-028	434-334-035	DECOD	02-09-007 02-09-007	458- 20-192	AMD-X	02-10-033
434-253-043	NEW-P	02-03-134	434-334-040				PREP	
434-253-043	NEW	02-07-029	434-334-045	DECOD	02-09-007	458- 20-208	PREP	02-09-068
434-253-045	NEW-P	02-03-134	434-334-050	DECOD	02-09-007	458- 20-209		02-11-123
434-253-045	NEW	02-07-029	434-334-055	DECOD	02-09-007	458- 20-210	PREP	02-11-123
434-253-047	NEW-P	02-03-134	434-334-060	DECOD	02-09-007	458- 20-217	AMD-X	02-11-044
434-253-047	NEW	02-07-029	434-334-063	DECOD	02-09-007	458- 20-252	PREP	02-06-030
434-253-049	NEW-P	02-03-134	434-334-065	DECOD	02-09-007	458- 20-260	AMD-W	02-02-088
434-253-049	NEW	02-07-029	434-334-070	DECOD	02-09-007	458- 20-260	AMD-P	02-06-032
434-261-005	AMD-P	02-03-134	434-334-075	DECOD	02-09-007	458- 20-265	PREP	02-06-030
434-261-005	AMD	02-07-029	434-334-082	DECOD	02-09-007	458- 29A-400	PREP	02-08-067
434-261-070	AMD-P	02-03-134	434-334-085	DECOD	02-09-007	458- 30-262	AMD	02-03-040
434-261-070	AMD	02-07-029	434-334-090	DECOD	02-09-007	458- 30-590	AMD	02-03-041
434-261-075	NEW-P	02-03-134	434-334-095	DECOD	02-09-007	458- 30-700	NEW	02-05-043
434-261-075	NEW	02-07-029	434-334-100	DECOD	02-09-007	458- 40-610	PREP	02-08-068
434-261-085	NEW-P	02-03-134	434-334-105	DECOD	02-09-007	458- 40-660	PREP	02-06-031
434-261-085	NEW	02-07-029	434-334-110	DECOD	02-09-007	458- 40-660	AMD-P	02-10-136
434-262-020	AMD-P	02-03-133	434-334-120	DECOD	02-09-007	458- 53-030	PREP	02-06-108
434-262-020	AMD	02-07-028	434-334-125	DECOD	02-09-007	458- 53-030	AMD-P	02-10-032
434-262-150	AMD-P	02-03-134	434-334-127	DECOD	02-09-007	458- 53-050	PREP	02-06-108
434-262-150	AMD	02-07-029	434-334-130	DECOD	02-09-007	458- 53-050	AMD-P	02-10-032
434-332-010	REP-X	02-09-008	434-334-135	DECOD	02-09-007	458- 53-090	PREP	02-06-108
434-333-010	RECOD	02-09-007	434-334-140	DECOD	02-09-007	458- 53-090	REP-P	02-10-032
434-333-015	RECOD	02-09-007	434-334-145	DECOD	02-09-007	458- 53-140	PREP	02-06-108
434-333-020	RECOD	02-09-007	434-334-150	DECOD	02-09-007	458- 53-140	AMD-P	02-10-032
434-333-025	RECOD	02-09-007	434-334-155	DECOD	02-09-007	460- 12A-010	NEW-P	02-07-027
434-333-030	RECOD	02-09-007	434-334-160	DECOD	02-09-007	460- 12A-010	NEW	02-10-103
434-333-035	RECOD	02-09-007	434-334-165	DECOD	02-09-007	461- 08-320	AMD	02-06-008
434-333-040	RECOD	02-09-007	434-334-170	DECOD	02-09-007	461- 08-355	AMD	02-06-009
434-333-045	RECOD	02-09-007	434-334-175	DECOD	02-09-007	461- 08-500	AMD	02-06-010
434-333-050	RECOD	02-09-007	456- 09-950	AMD-P	02-09-029	461- 08-505	AMD	02-06-010
434-333-055	RECOD	02-09-007	456- 10-750	AMD-P	02-09-029	468- 06-040	AMD	02-10-021
434-333-060	RECOD	02-09-007	458- 12-090	REP-P	02-09-020	468- 38-075	AMD-P	02-03-049
434-333-063	RECOD	02-09-007	458- 12-135	REP-X	02-09-018	468- 38-075	AMD	02-06-106
434-333-065	RECOD	02-09-007	458- 12-140	AMD-P	02-09-019	468- 38-120	PREP	02-10-058
434-333-070	RECOD	02-09-007	458- 12-270	REP-P	02-09-020	468- 38-120	AMD-E	02-10-059
434-333-075	RECOD	02-09-007	458- 12-275	REP-P	02-09-020	468- 38-390	AMD-P	02-03-049
434-333-082	RECOD	02-09-007	458- 12-280	REP-P	02-09-020	468- 38-390	AMD	02-06-106
434-333-085	RECOD	02-09-007	458- 16-115	AMD-P	02-09-020	468-300-010	AMD-P	02-05-062
434-333-090	RECOD	02-09-007	458- 16-560	PREP	02-07-077	468-300-010	AMD	02-09-010
434-333-095	RECOD	02-09-007	458- 16-560	NEW-P	02-11-051	468-300-020	AMD-P	02-05-062
434-333-100	RECOD	02-09-007	458- 18-220	AMD	02-03-039	468-300-020	AMD	02-09-010
434-333-105	RECOD	02-09-007	458- 19-005	PREP	02-10-110	468-300-040	AMD-P	02-05-062
434-333-110	RECOD	02-09-007	458- 19-010	PREP	02-10-110	468-300-040	AMD	02-09-010
434-333-120	RECOD	02-09-007	458- 19-015	PREP	02-10-110	468-300-220	AMD-P	02-05-062
434-333-125	RECOD	02-09-007	458- 19-020	PREP	02-10-110	468-300-220	AMD	02-09-010
434-333-127	RECOD	02-09-007	458- 19-025	PREP	02-10-110	468-550	PREP	02-06-004
434-333-130	RECOD	02-09-007	458- 19-030	PREP	02-10-110	468-550-030	AMD-P	02-10-020
434-333-135	RECOD	02-09-007	458- 19-035	PREP	02-10-110	468-550-040	AMD-P	02-10-020
			1 450 10 040	DDED	02.10.110	460 550 050	AMD D	02.10.020
434-333-140	RECOD	02-09-007	458- 19-040	PREP	02-10-110	468-550-050	AMD-P	02-10-020

WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	WAC#	ACTION	WSR#
468-550-070	AMD-P	02-10-020	478-117-250	NEW-E	02-04-087	478-118-270	NEW-P	02-08-066
468-550-080	AMD-P	02-10-020	478-117-250	NEW	02-08-023	478-118-280	NEW-E	02-06-042
478-108-010	AMD-P	02-03-085	478-117-260	NEW-P	02-03-085	478-118-280	NEW-P	02-08-066
478-108-010	AMD-E	02-04-087	478-117-260	NEW-E	02-04-087	478-118-400	NEW-E NEW-P	02-06-042 02-08-066
478-108-010	AMD-E	02-06-042	478-117-260	NEW D	02-08-023	478-118-400	NEW-P NEW-E	02-08-066
478-108-010	AMD	02-08-023	478-117-270	NEW-P NEW-E	02-03-085 02-04-087	478-118-410 478-118-410	NEW-P	02-08-042
478-108-010	AMD-P	02-08-066	478-117-270 478-117-270	NEW-E	02-04-087	478-118-420	NEW-E	02-06-042
478-116-131 478-116-131	PREP AMD-P	02-06-045 02-10-080	478-117-270	NEW-P	02-03-025	478-118-420	NEW-P	02-08-066
478-116-131	AMD-F	02-10-080	478-117-280	NEW-E	02-04-087	478-118-500	NEW-E	02-06-042
478-117-005	NEW-P	02-03-085	478-117-280	NEW	02-08-023	478-118-500	NEW-P	02-08-066
478-117-005	NEW-E	02-04-087	478-117-300	NEW-P	02-03-085	478-118-510	NEW-E	02-06-042
478-117-005	NEW	02-08-023	478-117-300	NEW-E	02-04-087	478-118-510	NEW-P	02-08-066
478-117-010	NEW-P	02-03-085	478-117-300	NEW	02-08-023	478-136-012	AMD	02-06-020
478-117-010	NEW-E	02-04-087	478-117-310	NEW-P	02-03-085	478-136-015	AMD	02-06-020
478-117-010	NEW	02-08-023	478-117-310	NEW-E	02-04-087	478-136-030	AMD-E	02-03-102
478-117-020	NEW-P	02-03-085	478-117-310	NEW	02-08-023	478-136-030	AMD	02-06-020
478-117-020	NEW-E	02-04-087	478-117-320	NEW-P	02-03-085	478-160-125	AMD	02-06-021
478-117-020	NEW	02-08-023	478-117-320	NEW-E	02-04-087	478-160-130	AMD	02-06-021 02-06-021
478-117-030	NEW-P	02-03-085	478-117-320	NEW	02-08-023	478-160-140	AMD NEW	02-06-021
478-117-030	NEW-E	02-04-087	478-117-400	NEW-P	02-03-085 02-04-087	478-160-163 478-160-175	·AMD	02-06-021
478-117-030	NEW	02-08-023	478-117-400 478-117-400	NEW-E NEW	02-04-087	480-70	PREP	02-10-055
478-117-040	NEW-P NEW-E	02-03-085 02-04-087	478-117-410	NEW-P	02-08-025	480- 75-240	NEW	02-03-016
478-117-040 478-117-040	NEW-E	02-04-087	478-117-410	NEW-E	02-04-087	480- 80-010	AMD	02-11-081
478-117-040	NEW-P	02-03-025	478-117-410	NEW	02-08-023	480- 80-015	NEW	02-11-081
478-117-050	NEW-E	02-04-087	478-118	PREP	02-04-037	480- 80-020	AMD	02-11-081
478-117-050	NEW	02-08-023	478-118-010	NEW-E	02-06-042	480- 80-025	NEW	02-11-081
478-117-060	NEW-P	02-03-085	478-118-010	NEW-P	02-08-066	480- 80-030	AMD	02-11-081
478-117-060	NEW-E	02-04-087	478-118-020	NEW-E	02-06-042	480- 80-031	NEW	02-11-081
478-117-060	NEW	02-08-023	478-118-020	NEW-P	02-08-066	480- 80-035	REP	02-11-081
478-117-070	NEW-P	02-03-085	478-118-030	NEW-E	02-06-042	480- 80-040	REP	02-11-081
478-117-070	NEW-E	02-04-087	478-118-030	NEW-P	02-08-066	480- 80-041	REP	02-11-081
478-117-070	NEW	02-08-023	478-118-040	NEW-E	02-06-042	480- 80-045	REP	02-11-081
478-117-080	NEW-P	02-03-085	478-118-040	NEW-P	02-08-066	480- 80-050	REP	02-11-081
478-117-080	NEW-E	02-04-087	478-118-050	NEW-E NEW-P	02-06-042 02-08-066	480- 80-060 480- 80-070	REP REP	02-11-081 02-11-081
478-117-080	NEW	02-08-023	478-118-050 478-118-060	NEW-P NEW-E	02-06-042	480- 80-080	REP	02-11-081
478-117-090	NEW-P NEW-E	02-03-085 02-04-087	478-118-060	NEW-P	02-08-066	480- 80-090	REP	02-11-081
478-117-090 478-117-090	NEW-E	02-04-087	478-118-070	NEW-E	02-06-042	480- 80-100	REP	02-11-081
478-117-100	NEW-P	02-03-085	478-118-070	NEW-P	02-08-066	480- 80-101	NEW	02-11-081
478-117-100	NEW-E	02-04-087	478-118-080	NEW-E	02-06-042	480- 80-102	Way,EV	02-11-081
478-117-100	NEW	02-08-023	478-118-080	NEW-P	02-08-066	480- 80-103	WEW	02-11-081
478-117-110	NEW-P	02-03-085	478-118-090	NEW-E	02-06-042	480- 80-104	WBN <sub>RF</sub>	02-11-081
478-117-110	NEW-E	02-04-087	478-118-090	NEW-P	02-08-066	480- 80-105	NEW	02-11-081
478-117-110	NEW	02-08-023	478-118-100	NEW-E	02-06-042	480- 80-110	REP	02-11-081
478-117-200	NEW-P	02-03-085	478-118-100	NEW-P	02-08-066	480- 80-111	NEW	02-11-081
478-117-200	NEW-E	02-04-087	478-118-200	NEW-E	02-06-042	480- 80-112	NEW	02-11-081
478-117-200	NEW	02-08-023	478-118-200	NEW-P	02-08-066	480- 80-121	NEW	02-11-081
478-117-210	NEW-P	02-03-085	478-118-210	NEW-E	02-06-042	480- 80-122	NEW	02-11-081
478-117-210	NEW-E	02-04-087	478-118-210	NEW-P	02-08-066	480- 80-123 480- 80-124	NEW NEW	02-11-081 02-11-081
478-117-210	NEW D	02-08-023	478-118-220	NEW-E NEW-P	02-06-042 02-08-066	480- 80-124	REP	02-11-081
478-117-220	NEW-P NEW-E	02-03-085 02-04-087	478-118-220 478-118-230	NEW-P	02-08-066	480- 80-123	REP	02-11-081
478-117-220	NEW-E NEW	02-04-087	478-118-230	NEW-E	02-08-066	480- 80-131	NEW	02-11-081
478-117-220 478-117-230	NEW-P	02-08-023	478-118-240	NEW-E	02-06-042	480- 80-131	NEW	02-11-081
478-117-230	NEW-F	02-04-087	478-118-240	NEW-P	02-08-066	480- 80-133	NEW	02-11-081
478-117-230	NEW	02-04-037	478-118-250	NEW-E	02-06-042	480- 80-134	NEW	. 02-11-081
478-117-240	NEW-P	02-03-085	478-118-250	NEW-P	02-08-066	480- 80-140	REP	02-11-081
4/0-11/-240						1 400 00 141	NICW	00 11 001
478-117-240	NEW-E	02-04-087	478-118-260	NEW-E	02-06-042	480- 80-141	NEW	02-11-081
	NEW-E NEW	02-04-087 02-08-023	478-118-260 478-118-260	NEW-E NEW-P	02-06-042 02-08-066	480- 80-141	NEW	02-11-081 02-11-081 02-11-081

Table [ 24 ]

**Table of WAC Sections Affected** 

480- 80-150 REP 02-11-081 480- 80-160 REP 02-11-081 480- 80-170 REP 02-11-081	480-120-194 480-120-195	NEW	02-11-081	504- 15-810	AMD-P	00 11 000
480- 80-160 REP 02-11-081	I.			•		02-11-092
		NEW	02-11-081	504- 15-830	AMD-P	02-11-092
	480-120-196	NEW	02-11-081	504- 25-001	NEW-P	02-11-093
480- 80-180 REP 02-11-081	480-120-197	NEW	02-11-081	504- 25-002	NEW-P	02-11-093
480- 80-190 REP 02-11-081	480-120-198	NEW	02-11-081	504- 25-003	NEW-P	02-11-093
480- 80-200 REP 02-11-081	480-120-199	NEW	02-11-081	504- 25-004	NEW-P	02-11-093
480- 80-201 NEW 02-11-081	480-120-201	NEW-P	02-08-081	504- 25-005	REP-P	02-11-093
480- 80-202 NEW 02-11-081	480-120-202	NEW-P	02-08-081	504- 25-010	REP-P	02-11-093
480- 80-203 NEW 02-11-081	480-120-203	NEW-P	02-08-081	504- 25-011	NEW-P	02-11-093
480- 80-204 NEW 02-11-081	480-120-204	NEW-P	02-08-081	504- 25-012	NEW-P	02-11-093
480- 80-205 NEW 02-11-081	480-120-205	NEW-P	02-08-081	504- 25-013	NEW-P	02-11-093
480- 80-206 NEW 02-11-081	480-120-206	NEW-P	02-08-081	504- 25-014	NEW-P	02-11-093 02-11-093
480- 80-210 REP 02-11-081	480-120-207	NEW-P	02-08-081	504- 25-015	AMD-P NEW-P	02-11-093
480- 80-220 REP 02-11-081	480-120-208	NEW-P	02-08-081	504- 25-018 504- 25-020	AMD-P	02-11-093
480- 80-230 REP 02-11-081	480-120-209	NEW-P NEW-P	02-08-081 02-08-081	504- 25-025	AMD-P	02-11-093
480- 80-240 REP 02-11-081	480-120-211 480-120-212	NEW-P	02-08-081	504- 25-030	AMD-P	02-11-093
480- 80-241 NEW 02-11-081	480-120-212	NEW-P	02-08-081	504- 25-035	AMD-P	02-11-093
480- 80-242 NEW 02-11-081	480-120-214	NEW-P	02-08-081	504- 25-040	AMD-P	02-11-093
480- 80-250 REP 02-11-081 480- 80-260 REP 02-11-081	480-120-214	NEW-P	02-08-081	504- 25-041	NEW-P	02-11-093
	480-120-216	NEW-P	02-08-081	504- 25-042	NEW-P	02-11-093
480- 80-270 REP 02-11-081 480- 80-280 REP 02-11-081	480-120-264	NEW	02-11-080	504- 25-045	AMD-P	02-11-093
480- 80-280 REP 02-11-081	480-121-010	REP	02-11-080	504- 25-050	AMD-P	02-11-093
480- 80-290 REP 02-11-081	480-121-011	NEW	02-11-080	504- 25-055	AMD-P	02-11-093
480- 80-310 REP 02-11-081	480-121-015	AMD	02-11-080	504- 25-060	AMD-P	02-11-093
480- 80-320 REP 02-11-081	480-121-016	NEW	02-11-080	504- 25-065	AMD-P	02-11-093
480- 80-325 REP 02-11-081	480-121-017	NEW	02-11-080	504- 25-075	AMD-P	02-11-093
480- 80-326 REP 02-11-081	480-121-018	NEW	02-11-080	504- 25-080	AMD-P	02-11-093
480- 80-330 REP 02-11-081	480-121-020	AMD-S	02-07-041	504- 25-085	AMD-P	02-11-093
480- 80-335 REP 02-11-081	480-121-020	AMD	02-11-080	504- 25-090	AMD-P	02-11-093
480- 80-340 REP 02-11-081	480-121-023	REP	02-11-080	504- 25-095	AMD-P	02-11-093
480- 80-350 REP 02-11-081	480-121-026	AMD	02-11-080	504- 25-100	AMD-P	02-11-093
480- 80-360 REP 02-11-081	480-121-030	REP	02-11-080	504- 25-115	AMD-P	02-11-093
480- 80-370 REP 02-11-081	480-121-040	AMD	02-11-080	504- 25-120	AMD-P	02-11-093
480- 80-380 REP 02-11-081	480-121-050	REP	02-11-080	504- 25-125	AMD-P	02-11-093
480- 90 PREP 02-10-055	480-121-060	AMD	02-11-080	504- 25-130	AMD-P	02-11-093
480- 90-193 AMD 02-11-081	480-121-061	AMD	02-11-080	504- 25-135	AMD-P	02-11-093 02-11-093
480- 90-194 NEW 02-11-081	480-121-062	AMD	02-11-080	504- 25-137	NEW-P AMD-P	02-11-093
480- 90-195 NEW 02-11-081	480-121-063	AMD-S	02-07-041	504- 25-138 504- 25-139	NEW-P	02-11-093
480- 90-197 NEW 02-11-081	480-121-063	AMD AMD	02-11-080 02-11-080	504- 25-140	AMD-P	02-11-093
480- 90-198 NEW 02-11-081	480-121-064 480-121-065	NEW	02-11-080	504- 25-200	AMD-P	02-11-093
480- 90-199 NEW 02-11-081 480- 93-240 NEW 02-03-016	480-121-003	REP	02-11-080	504- 25-201	NEW-P	02-11-093
	480-121-070	AMD	02-03-017	504- 25-202	NEW-P	02-11-093
480-100 PREP 02-10-055 480-100-148 PREP 02-10-055	480-122-020	AMD	02-03-017	504- 25-203	NEW-P	02-11-093
480-100-148 FREF 02-10-033 480-100-193 AMD 02-11-081	480-122-030	REP	02-03-017	504- 25-205	AMD-P	02-11-093
480-100-194 NEW 02-11-081	480-122-040	REP	02-03-017	504- 25-210	REP-P	02-11-093
480-100-195 NEW 02-11-081	480-122-060	AMD	02-03-017	504- 25-215	AMD-P	02-11-093
480-100-197 NEW 02-11-081	480-122-070	REP	02-03-017	504- 25-220	REP-P	02-11-093
480-100-198 NEW 02-11-081	480-122-080	AMD	02-03-017	504- 25-221	NEW-P	02-11-093
480-100-199 NEW 02-11-081	480-122-090	REP	02-03-017	504- 25-222	NEW-P	02-11-093
480-110 PREP 02-10-055	495C-120-040	AMD	02-04-022	504- 25-223	NEW-P	02-11-093
480-120-043 REP 02-11-081	495C-120-041	AMD	02-04-022	504- 25-224	NEW-P	02-11-093
480-120-052 REP 02-11-080	504- 15-060	REP-P	02-11-092	504- 25-225	REP-P	02-11-093
480-120-058 REP 02-11-080	504- 15-100	AMD-P	02-11-092	504- 25-226	NEW-P	02-11-093
480-120-127 NEW 02-11-080	504- 15-200	AMD-P	02-11-092	504- 25-227	NEW-P	02-11-093
480-120-144 REP-P 02-08-081	504- 15-210	AMD-P	02-11-092	504- 25-228	NEW-P	02-11-093
480-120-151 REP-P 02-08-081	504- 15-460	AMD-P	02-11-092	504- 25-229	NEW-P	02-11-093
480-120-152 REP-P 02-08-081	504- 15-540	AMD-P	02-11-092	504- 25-230	AMD-P	02-11-093
480-120-153 REP-P 02-08-081	504- 15-580	AMD-P	02-11-092	504- 25-231	NEW-P	02-11-093
480-120-154 REP-P 02-08-081	504- 15-600	AMD-P	02-11-092	504- 25-235	REP-P	02-11-093
480-120-193 NEW 02-11-081	504- 15-650	AMD-P	02-11-092	504- 25-240	REP-P	02-11-093

Table

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WAC#	ACTION	WSR#	WAC#	ACTION	WSR#	_   WAC#	ACTION	WSR#
504- 25-245	AMD-P	02-11-093						
516- 12-400	AMD	02-07-045	<b>.</b>		•		•	· .
516- 12-420	AMD	02-07-045						1
516- 12-430	AMD ·	02-07-045						
516- 12-440	AMD	02-07-045						
516- 12-450	AMD	02-07-045					•	
516- 12-460	AMD	02-07-045	į.					
516- 12-470	AMD	02-07-045						
516- 12-480	AMD	02-07-045	f					
516- 13-030	AMD	02-07-045						
516- 13-080	AMD	02-07-045						
516- 13-090	AMD	02-07-045				•		•
516- 14-200	AMD	02-07-045	1					

Table [ 26 ]

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ACADEMIC ACHIEVEMENT AND ACCOUNT	ABILIT	<b>Y</b>	Red raspberry commission		
COMMISSION			meetings	MISC	02-02-091
Meetings	MISC MISC	02-01-039 02-01-037	Rules	MISC	02-03-126
Rules coordinator	MISC	02-01-037	agenda corrections		02-04-041
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tribal hunting boundaries waterfowl wild turkey	PROP PROP PERM PERM EMER PREP PROP PERM	02-10-128 02-06-124 <b>02-11-069</b> 02-05-021 02-03-052 02-10-109 02-06-125 <b>02-11-069</b>	HEALTH CARE AUTHORITY  Basic health eligibility notification of changes reinstatement procedures	PREP PREP PREP PREP PREP	02-10-126 02-01-116 02-01-115 02-11-035 02-02-086
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tribal hunting boundaries waterfowl wild turkey	PROP PROP PERM PERM EMER PREP PROP PERM PREP	02-10-128 02-06-124 02-11-069 02-05-021 02-03-052 02-10-109 02-06-125 02-11-069 02-02-057	HEALTH CARE AUTHORITY Basic health eligibility notification of changes reinstatement procedures Blind vendors, health insurance Delinquent accounts  Furlough employees, provisions	PREP PREP PREP PREP PROP PERM	02-10-126 02-01-116 02-01-115 02-11-035 02-02-086 02-05-078
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safety net University of Washington transition school and	PERM	02-05-036	refunds		02-02-008
early entrance allocations	PREP	02-08-021	stratification, ratio study and calculation	PREP PROP	
•			taxing district boundaries and tax code areas	PROP	
PUBLIC WORKS BOARD (See COMMUNITY, TRADE, AND ECONOM)	C DEVI	EI ODMENIT	Rules	MICC	02 02 007
DEPARTMENT OF)	CDEVI	eloi Meni,	agenda withdrawal	MISC PROP	02-02-097 02-02-088
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PUGET SOUND CLEAN AIR AGENCY Asbestos notification requirements	PROP	02-09-082	Timber excise tax	PREP	02-08-068
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		02-10-015	(See Issue 02-01 for complete list designated as		
Notice of construction fees Operating permit fees		02-09-084 02-09-085	of 12/26/01) Academic and achievement accountability		
Registration fees	PROP	02-09-083	commission	MISC	02-01-037
OUADTERI V REPORTS			Agriculture, department of	MISC	
QUARTERLY REPORTS (See CODE REVISER'S OFFICE)			Central Washington University Environmental hearings board	MISC MISC	
(SEE CODE RELIVEDEN S CITTOE)			Financial management, office of	MISC	
REAL ESTATE APPRAISERS			Labor and industries, department of	MISC	
(See LICENSING, DEPARTMENT OF)			Toxicologist, state	MISC	02-01-088
RENTON TECHNICAL COLLEGE			SECRETARY OF STATE		
Meetings	MISC	02-02-081	Elections		
RETIREMENT SYSTEMS, DEPARTMENT OF	ı		administrators ballots	PREP PROP	
Actuarial factors	PREP	02-11-078			02-07-029
Deferred compensation		02-01-121 02-02-059	declaration of candidacy, electronic filings	PREP	
Definitions		02-02-039	mail elections	PROP	<b>02-11-133</b> 02-03-133
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General provisions  Law enforcement officers' and fire fighters'	PREP	02-08-063			02-09-008
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retirement age	PROP		• •	PERM	02-02-067
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